

By Senator Burt

16-1344-98

1 A bill to be entitled
2 An act relating to the state correctional
3 system; creating s. 944.185, F.S.; authorizing
4 a board of county commissioners and certain
5 private vendors to operate correctional
6 facilities to house out-of-state inmates;
7 requiring that the board or vendor submit
8 certain information to the Department of
9 Corrections; prohibiting the board or vendor
10 from accepting out-of-state inmates convicted
11 of certain specified offenses; requiring that
12 an offender be returned to the sending state
13 before release; amending s. 944.40, F.S.;
14 providing that certain penalties imposed for
15 the offense of escape apply to an escape from a
16 private correctional facility; amending s.
17 957.03, F.S.; providing additional
18 qualifications for a member of the Correctional
19 Privatization Commission; requiring a majority
20 of a quorum for the commission to take action;
21 revising requirements for the commission's
22 annual report to the Legislature; authorizing
23 the use of inmate labor in constructing a
24 correctional facility; requiring the contractor
25 to develop security procedures; providing
26 reporting requirements; creating s. 957.031,
27 F.S.; prohibiting a member of the Correctional
28 Privatization Commission and certain employees
29 and consultants from accepting benefits from or
30 performing certain services for a contractor or
31 corporation that has a business relationship

1 with the commission; amending s. 957.06, F.S.;
2 deleting a requirement for cooperative
3 agreements; creating s. 957.061, F.S.;
4 requiring the commission and the Department of
5 Corrections to enter into agreements with
6 contractors for transferring inmates between
7 facilities; amending s. 957.08, F.S.; providing
8 for the transfer of inmates in accordance with
9 such agreement; amending s. 957.125, F.S.;
10 deleting obsolete provisions with respect to
11 contracts by the Correctional Privatization
12 Commission; requiring the Florida Corrections
13 Commission to conduct an analysis of
14 correctional services and report to the
15 Governor and Legislature; requiring the
16 Correctional Privatization Commission to
17 contract for a correctional facility for female
18 inmates; specifying capacity; requiring that
19 the Correctional Privatization Commission
20 contract for certain studies of recidivism
21 rates; providing for development of a
22 methodology and sampling strategy; requiring a
23 report; repealing s. 944.711, F.S., relating to
24 requests for proposals; providing an effective
25 date.

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

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29 Section 1. Section 944.185, Florida Statutes, is
30 created to read:

31 944.185 Contracts for out-of-state inmates.--

1 (1) The following entities, in addition to the
2 Department of Corrections, may operate a correctional facility
3 in this state to house inmates convicted of offenses committed
4 in another state:

5 (a) The board of county commissioners of a county.

6 (b) A private vendor that operates a correctional
7 facility under a contract with a board of county commissioners
8 as provided in s. 951.062.

9 (c) A private vendor that operates a correctional
10 facility under a contract with the Correctional Privatization
11 Commission as provided in s. 957.03 or under a contract with
12 the Department of Corrections.

13 (d) The Federal Government.

14 (2) If a board of county commissioners or a private
15 vendor operates a correctional facility to house out-of-state
16 inmates, the board or the private vendor must submit to the
17 Department of Corrections:

18 (a) A statement of the custody level and capacity of
19 the correctional facility.

20 (b) The number of beds and the number of days the beds
21 will be available to house out-of-state inmates at the
22 correctional facility.

23 (c) A written plan of procedure to be used to
24 coordinate the activities of law enforcement agencies in
25 response to any riot, rebellion, escape, or an emergency
26 situation that occurs at the facility.

27 (3) Notwithstanding subsections (1) and (2), a board
28 of county commissioners or a private vendor may not accept any
29 out-of-state inmate who:

30 (a) Has been convicted of a murder that would be
31 punishable as a felony if convicted of a similar offense under

1 the laws of this state, including, but not limited to, a
2 violation of s. 782.04, relating to the unlawful killing of a
3 human being.

4 (b) Has been convicted of a sexual offense that would
5 be punishable as a felony if convicted of a similar offense
6 under the laws of this state, including, but not limited to,
7 s. 794.011, relating to sexual battery, and s. 800.04,
8 relating to a lewd, lascivious, or indecent assault or act
9 upon or in the presence of a child.

10 (c) Has a record of violence while confined in another
11 state, violence that involved the use of a deadly weapon, or
12 any escape or attempted escape from secure custody.

13 (4) Before an out-of-state offender incarcerated in
14 this state is released from incarceration, the inmate must be
15 returned to the sending state.

16 (5) This section does not apply to a board of county
17 commissioners or a private vendor that operates a correctional
18 facility that houses only federal prisoners pursuant to a
19 contract with a federal agency. If the board of county
20 commissioners or a private vendor wishes to house out-of-state
21 inmates under a contract with another state, the board or
22 vendor must submit the information required under subsection
23 (2) to the Department of Corrections.

24 Section 2. Section 944.40, Florida Statutes, is
25 amended to read:

26 944.40 Escapes; penalty.--Any prisoner confined in any
27 prison; ~~;~~jail; private correctional facility; ~~;~~road camp; ~~;~~or
28 other ~~penal institution,~~state, county, or municipal penal
29 institution; or an institution operated under a contract with
30 the state, a county, or a municipality; ~~;~~working upon the
31 public roads; ~~;~~or being transported to or from a place of

1 confinement, who escapes or attempts to escape from such
2 confinement commits ~~shall be guilty of~~ a felony of the second
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084. The punishment of imprisonment imposed under this
5 section shall run consecutive to any former sentence imposed
6 upon any prisoner.

7 Section 3. Subsection (2), paragraph (f) of subsection
8 (3), and subsection (4) of section 957.03, Florida Statutes,
9 are amended to read:

10 957.03 Correctional Privatization Commission.--

11 (2) MEMBERS; QUALIFICATIONS.--The commission shall
12 consist of five members appointed by the Governor, none of
13 whom may be an employee of the Department of Corrections or
14 the Department of Juvenile Justice, one of whom must be a
15 minority person as defined in s. 288.703(3), and four of whom
16 must be employed by the private sector. A commissioner may
17 not have been an employee or a contract vendor of or a
18 consultant to the department or the Department of Juvenile
19 Justice, or an employee or a contract vendor of or a
20 consultant to a bidder, for 2 years prior to appointment to
21 the commission and may not become an employee or a contract
22 vendor of or a consultant to the department or the Department
23 of Juvenile Justice, or an employee or a contract vendor of or
24 a consultant to a bidder, for 2 years following the
25 termination of the appointment to the commission. At least one
26 member of the commission must have extensive
27 corrections-related knowledge and experience.

28 (3) TERMS, ORGANIZATION, AND MEETINGS.--

29 (f) The commission shall meet upon the call of the
30 chair or a majority of the members of the commission. A
31 majority of the members of the commission constitutes a

1 quorum, and an affirmative vote by a majority of the quorum is
2 necessary for an action by the commission to be binding. Each
3 vote must be recorded in the minutes of the meeting.

4 (4) DUTIES.--

5 (a) The commission shall enter into a contract or
6 contracts with one contractor per facility for the designing,
7 acquiring, financing, leasing, constructing, and operating of
8 that facility or, if specifically authorized by the
9 Legislature, separately contract for any such services. The
10 commission may ~~shall~~ not enter into any contract to design,
11 acquire, finance, lease, construct, or operate more than two
12 private correctional facilities without specific legislative
13 authorization.

14 (b) In its request for proposals, the commission shall
15 invite innovation and may ~~shall~~ not require use of prototype
16 designs of state correctional facilities specified or designed
17 by or for the department or of state juvenile facilities
18 specified or designed by or for the Department of Juvenile
19 Justice. The commission may ~~shall~~ not require the use of any
20 prototype design that specially advantages any contractor.

21 (c) The commission must report to the Speaker of the
22 House of Representatives and the President of the Senate by
23 December 1 each year on the status and effectiveness of the
24 facilities under its management. ~~Each report must also include~~
25 ~~a comparison of recidivism rates for inmates of private~~
26 ~~correctional facilities to the recidivism rates for inmates of~~
27 ~~comparable facilities managed by the department.~~

28 (d) In its request for proposals, the commission may
29 authorize the contractor to use inmate labor to assist in
30 constructing the facility. The Department of Corrections shall
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1 assign available inmate work crews at the request of the
2 commission and the contractor.

3 (e) In renegotiating or originating a contract on or
4 after July 1, 1998, the commission may authorize a contractor
5 to use selected inmates in a public works program under ss.
6 946.40 and 946.41. If inmates are placed in a public works
7 program, the contractor shall develop security procedures,
8 which must be approved by the commission and the department,
9 to ensure public safety.

10 (f) The commission, with assistance from its
11 contractors, shall develop outcome performance measures
12 similar to the performance measures included in the General
13 Appropriations Act for the department under s. 216.0166 and
14 shall provide an annual report to the Legislature.

15 Section 4. Section 957.031, Florida Statutes, is
16 created to read:

17 957.031 Prohibited conduct by commission member,
18 employee, or consultant.--

19 (1) A member or employee of the commission, or a
20 consultant hired by the commission, who reviews, monitors, or
21 approves any contract for a private correctional facility may
22 not:

23 (a) Solicit or accept, directly or indirectly, any
24 personal benefit or promise of benefit from any bidder,
25 potential bidder, or contractor.

26 (b) Serve on the board of directors of any corporation
27 that is a subsidiary of, or financially associated with, any
28 corporation with which the commission has or may have a
29 business relationship of any kind.

30 (2) This section does not contravene any provision of
31 s. 112.313, s. 112.3145, or s. 112.3148.

1 Section 5. Section 957.06, Florida Statutes, is
2 amended to read:

3 957.06 Powers and duties not delegable to
4 contractor.--A contract entered into under this chapter does
5 not authorize, allow, or imply a delegation of authority to
6 the contractor to:

7 (1) Make a final determination on the custody
8 classification of an inmate. The contractor may submit a
9 recommendation for a custody change on an inmate; however, any
10 recommendation made shall be in compliance with the
11 department's custody classification system.

12 (2) Choose the facility to which an inmate is
13 initially assigned or subsequently transferred. The contractor
14 may request, in writing, that an inmate be transferred to a
15 facility operated by the department. ~~The commission, the~~
16 ~~contractor, and a representative of the department shall~~
17 ~~develop and implement a cooperative agreement for transferring~~
18 ~~inmates between a correctional facility operated by the~~
19 ~~department and a private correctional facility. The~~
20 ~~department, the commission, and the contractor must comply~~
21 ~~with the cooperative agreement.~~

22 (3) Develop or adopt disciplinary rules or penalties
23 that differ from the disciplinary rules and penalties that
24 apply to inmates housed in correctional facilities operated by
25 the department.

26 (4) Make a final determination on a disciplinary
27 action that affects the liberty of an inmate. The contractor
28 may remove an inmate from the general prison population during
29 an emergency, before final resolution of a disciplinary
30 hearing, or in response to an inmate's request for assigned
31 housing in protective custody.

1 (5) Make a decision that affects the sentence imposed
2 upon or the time served by an inmate, including a decision to
3 award, deny, or forfeit gain-time.

4 (6) Make recommendations to the Parole Commission with
5 respect to the denial or granting of parole, control release,
6 conditional release, or conditional medical release. However,
7 the contractor may submit written reports to the Parole
8 Commission and must respond to a written request by the Parole
9 Commission for information.

10 (7) Develop and implement requirements that inmates
11 engage in any type of work or work program, except to the
12 extent provided by law or approved ~~that those requirements are~~
13 ~~accepted~~ by the commission.

14 (8) Determine inmate eligibility for any form of
15 conditional, temporary, or permanent release from a
16 correctional facility.

17 Section 6. Section 957.061, Florida Statutes, is
18 created to read:

19 957.061 Cooperative transfer agreement.--The
20 commission and the department shall develop and implement a
21 cooperative agreement with each contractor that operates a
22 private correctional facility to provide procedures for
23 transferring inmates between the department's correctional
24 facilities and the private correctional facility. The
25 department, commission, and contractor shall comply with the
26 terms of the transfer agreement. The Florida Corrections
27 Commission shall periodically monitor and document compliance
28 with the transfer agreements, mediate disputes between the
29 department and the Correctional Privatization Commission, and
30 make recommendations to the Governor.

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1 Section 7. Section 957.08, Florida Statutes, is
2 amended to read:

3 957.08 Capacity requirements.--The department shall
4 transfer and assign inmates ~~prisoners~~, at a rate ~~to be~~
5 determined by contract ~~the commission~~, to each private
6 correctional facility opened pursuant to this chapter in an
7 amount not less than 90 percent or more than 100 percent of
8 the capacity of the facility pursuant to the contract with the
9 commission. The types of inmates ~~prisoners~~ transferred by the
10 department shall be in accordance with the cooperative
11 transfer agreement developed under s. 957.061 and represent a
12 cross section of the general inmate population, based on the
13 grade of custody or the offense of conviction, at the most
14 comparable facility operated by the department.

15 Section 8. Section 957.125, Florida Statutes, is
16 amended to read:

17 957.125 Correctional facilities for youthful
18 offenders.--

19 ~~(1) The Correctional Privatization Commission may~~
20 ~~enter into contracts in fiscal year 1994-1995 for designing,~~
21 ~~financing, acquiring, leasing, constructing, and operating~~
22 ~~three correctional facilities, notwithstanding s. 957.07.~~
23 ~~These three facilities shall be designed to have a capacity of~~
24 ~~up to 350 beds each and house inmates sentenced or classified~~
25 ~~as youthful offenders within the custody of the Department of~~
26 ~~Corrections under chapter 958. Two of these facilities shall~~
27 ~~be designed to house youthful offenders between the ages of 14~~
28 ~~and 18, and one shall be designed to house youthful offenders~~
29 ~~between the ages of 19 and 24.~~

30 ~~(2) These Youthful offender facilities~~ operated under
31 a contract as provided in this chapter shall be designed to

1 provide the optimum capacity for programs for youthful
2 offenders designed to reduce recidivism, including, but not
3 limited to: educational and vocational programs, substance
4 abuse and mental health counseling, prerelease orientation and
5 planning, job and career counseling, physical exercise,
6 dispute resolution, and life skills training. In order to
7 ensure this quality programming, the commission shall give no
8 more than 30 percent weight to cost in evaluating proposals.

9 ~~(3) Effective July 1, 1996, the authority to contract~~
10 ~~for the operation of two youthful offender facilities shall be~~
11 ~~transferred from the Correctional Privatization Commission to~~
12 ~~the Department of Juvenile Justice, and those facilities shall~~
13 ~~be used for male or female committed juvenile offenders. The~~
14 ~~Department of Juvenile Justice is authorized to modify any~~
15 ~~operational contract with the same contractor to whom the~~
16 ~~Correctional Privatization Commission awarded the contract for~~
17 ~~these facilities, without rebidding, in order to conform with~~
18 ~~the requirements of this subsection.~~

19 ~~(4) The commission shall specify the area in which~~
20 ~~each facility will be located and require that each be located~~
21 ~~in or near a different metropolitan area in areas of the state~~
22 ~~close to the home communities of the youthful offenders they~~
23 ~~house in order to assist in the most effective rehabilitation~~
24 ~~efforts, including family visitation.~~

25 Section 9. The Florida Corrections Commission shall
26 conduct an in-depth analysis and develop legislative proposals
27 for the 1999-2000 fiscal year on the future and expanded use
28 of technology and contracts for services in all aspects of
29 corrections, including, but not limited to, prison management,
30 mobile surgical units, prison industries, health care, food
31 services, inmate transportation, pharmaceutical services,

1 canteen services, educational programs, victim-notification
2 hotlines, satellite tracking of offenders, inmate legal
3 services, and community supervision. The analysis shall, at a
4 minimum, identify cost-efficiencies, technological
5 innovations, and best practices at both private and public
6 correctional facilities; identify bureaucratic and legal
7 barriers that prevent or nullify effective cost-containment
8 strategies in private and public correctional facilities;
9 determine ways to reduce inmate idleness through partnerships
10 with private industries; and produce plans for the most
11 effective use of general and specialized private-sector
12 services in correctional facilities. The Florida Corrections
13 Commission shall report its findings and recommendations to
14 the Governor and Legislature in its 1998 annual report.

15 Section 10. Contingent upon an appropriation and
16 notwithstanding section 957.07, Florida Statutes, the
17 Correctional Privatization Commission may enter into a
18 contract in the 1998-1999 fiscal year for designing,
19 financing, acquiring, leasing, constructing, and operating one
20 correctional facility designed to house female inmates. The
21 commission shall specify the exact area in which the facility
22 will be located. However, it is the intent of the Legislature
23 that the facility be located in or near a metropolitan area in
24 the southern part of the state which is close to the home
25 communities of the female inmates in order to assist in
26 rehabilitation efforts, including family visitation. The
27 facility shall have a capacity of 800 beds and shall provide
28 the optimum capacity for programs for female inmates which are
29 designed to reduce recidivism, including, but not limited to,
30 educational and vocational programs, parenting and domestic
31 violence awareness, chaplaincy services, substance abuse

1 treatment, mental and physical health counseling, and
2 prerelease orientation and planning.

3 Section 11. During the 1998-1999 fiscal year, the
4 Correctional Privatization Commission shall continue to
5 contract with an academic researcher to produce a comparison
6 of recidivism rates for inmates in private correctional
7 facilities to recidivism rates for inmates in comparable
8 facilities managed by the Department of Corrections. Beginning
9 in the 1998-1999 fiscal year, the methodology and sampling
10 strategy shall be developed by consensus between the director
11 of the Division of Economic and Demographic Research of the
12 Joint Legislative Management Committee, one professional staff
13 person from the Department of Corrections who has research
14 expertise, and an academic researcher retained by the
15 Correctional Privatization Commission. The methodology and
16 sampling strategy developed and unanimously adopted shall be
17 adhered to in all subsequent and independent analyses or
18 reports produced. The academic researchers under contract to
19 the commission, as well as the researchers for the Department
20 of Corrections and the Division of Economic and Demographic
21 Research, shall independently analyze the data collected under
22 this section and shall collaborate on a single report to be
23 completed by February 1, 1999.

24 Section 12. Section 944.711, Florida Statutes, is
25 repealed.

26 Section 13. This act shall take effect July 1, 1998.
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SENATE SUMMARY

Provides for a board of county commissioners or the Correctional Privatization Commission to operate correctional facilities to house out-of-state inmates. Prohibits a facility from accepting an out-of-state inmate convicted of murder or certain sexual offenses or who has a record of violence or escape. Revises voting procedures of the Correctional Privatization Commission. Authorizes a contractor to use inmate labor in constructing a correctional facility. Prohibits a member of the Correctional Privatization Commission and its employees or consultants from engaging in certain activities that are a conflict of interest. Requires that the Florida Corrections Commission conduct a study of correctional services and report to the Governor and Legislature. Requires that the Correctional Privatization Commission contract for a correctional facility for female inmates. (See bill for details.)