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Bill No. CS/HB 3527

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Trovillion offered the following:

Amendment to Senate Amendment (733788) (with title amendment)

remove: the entire amendment

and insert in lieu thereof:

Section 1. Subsection (11) is added to section 951.23, Florida Statutes, to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.--

(11)(a) Any prisoner in a county or municipal detention facility who knowingly and willfully refuses on three or more occasions to obey or comply with any rule governing the conduct of prisoners commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Such punishment must be in addition to any sentence he or she may be serving. A prisoner may be charged with, convicted of, and sentenced for a violation of this subsection in addition to any other criminal offense committed while detained in a county or municipal detention facility.

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1 (b) Upon a prisoner's classification in a county or
2 municipal detention facility, he or she must be provided with
3 a printed copy of the rules governing the conduct of
4 prisoners. Translation assistance must be provided, as needed.

5 (c) As used in this subsection, the term "rules
6 governing the conduct of prisoners" means any of the rules
7 relating to order and discipline provided in the Florida Model
8 Jail Standards, adopted pursuant to subsection (4) and
9 effective on October 1, 1997.

10 Section 2. (1) The following trust funds and fund
11 accounts are terminated on July 1, 1998:

12 (a) Within the state courts system:

13 1. Appellate Opinion Distribution Trust Fund, SAMAS
14 number 222215.

15 2. Working Capital Trust Fund, SAMAS number 222792.

16 (b) Within the Department of Corrections:

17 1. Hurricane Andrew Recovery and Rebuilding Trust
18 Fund, SAMAS number 702205.

19 2. Working Capital Trust Fund, SAMAS number 702792.

20 (2) All current balances remaining in, and all
21 revenues of, the trust funds and fund accounts terminated by
22 this act shall be transferred to the General Revenue Fund.

23 (3) For each trust fund or fund account terminated by
24 this act, the state courts system or Department of
25 Corrections, as applicable, shall pay any outstanding debts or
26 obligations of the terminated fund or account as soon as
27 practicable, and the Comptroller shall close out and remove
28 the terminated fund or account from the various state
29 accounting systems using generally accepted accounting
30 principles concerning warrants outstanding, assets, and
31 liabilities.

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1 Section 3. Section 216.272, Florida Statutes, is
2 amended to read:

3 216.272 Working Capital Trust Funds.--

4 (1) There are hereby created Working Capital Trust
5 Funds for the purpose of providing sufficient funds for the
6 operation of data processing centers, which may include the
7 creation of a reserve account within the Working Capital Trust
8 Fund to pay for future information technology resource
9 acquisitions as appropriated by the Legislature. Such funds
10 shall be created from moneys budgeted for data processing
11 services and equipment by those agencies, ~~and the judicial~~
12 ~~branch~~, to be served by the data processing center.

13 (2) The funds so allocated shall be in an amount
14 sufficient to finance the center's operation; however, each
15 agency ~~or judicial branch~~ served by the center shall
16 contribute an amount equal to its proportionate share of cost
17 of operating such data processing center. Each agency, ~~or the~~
18 ~~judicial branch~~, utilizing the services of the data processing
19 center shall pay such moneys into the appropriate Working
20 Capital Trust Fund on a quarterly basis or such other basis as
21 may be determined by the Executive Office of the Governor ~~or~~
22 ~~the Chief Justice as appropriate.~~

23 Section 4. Section 945.215, Florida Statutes, is
24 amended to read:

25 945.215 Inmate welfare and employee benefit trust
26 funds.--

27 (1) INMATE WELFARE TRUST FUND; DEPARTMENT OF
28 CORRECTIONS.--

29 (a) The Inmate Welfare Trust Fund constitutes a trust
30 held by the department for the benefit and welfare of
31 offenders and inmates under the jurisdiction of the Department

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1 of Corrections. Funds shall be credited to the trust fund as
2 follows:

3 1. All funds moneys held in any auxiliary, canteen,
4 welfare, or similar fund in any correctional facility operated
5 directly by the department state institution under the
6 jurisdiction of the Department of Corrections shall be
7 deposited in the Inmate Welfare Trust Fund of the department,
8 which fund is created in the State Treasury, to be
9 appropriated annually by the Legislature and deposited in the
10 Department of Corrections Grants and Donations Trust Fund.

11 2. All net proceeds from operating inmate canteens,
12 vending machines used primarily by inmates, hobby shops, and
13 other such facilities; however, funds necessary to moneys
14 budgeted by the department for the purchase of items for
15 resale at inmate canteens and or vending machines must be
16 deposited into local bank accounts designated by the
17 department. The department shall submit to the President of
18 the Senate and the Speaker of the House of Representatives by
19 January 1 of each year a report that documents the receipts
20 and expenditures, including a verification of telephone
21 commissions, from the Inmate Welfare Trust Fund for the
22 previous fiscal year. The report must present this information
23 by program, by institution, and by type of receipt.

24 3. All proceeds from contracted telephone commissions.
25 The department shall develop and update, as necessary,
26 administrative procedures to verify that:

27 a. Contracted telephone companies accurately record
28 and report all telephone calls made by inmates incarcerated in
29 correctional facilities under the department's jurisdiction;

30 b. Persons who accept collect calls from inmates are
31 charged the contracted rate; and

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- 1 c. The department receives the contracted telephone
- 2 commissions.
- 3 4. Any funds that may be assigned by inmates or
- 4 donated to the department by the general public or an inmate
- 5 service organization; however, the department shall not accept
- 6 any donation from, or on behalf of, any individual inmate.
- 7 5. Repayment of the one-time sum of \$500,000
- 8 appropriated in fiscal year 1996-1997 from the Inmate Welfare
- 9 Trust Fund for correctional work programs pursuant to s.
- 10 946.008.
- 11 6. All proceeds from:
- 12 a. The confiscation and liquidation of any contraband
- 13 found upon, or in the possession of, any inmate:
- 14 b. Disciplinary fines imposed against inmates;
- 15 c. Forfeitures of inmate earnings; and
- 16 d. Unexpended balances in individual inmate trust fund
- 17 accounts of less than \$1.
- 18 7. All interest earnings and other proceeds derived
- 19 from investments of funds deposited in the trust fund. In the
- 20 manner authorized by law for fiduciaries, the secretary of the
- 21 department, or the secretary's designee, may invest any funds
- 22 in the trust fund when it is determined that such funds are
- 23 not needed for immediate use.
- 24 (b) Funds ~~Beginning with the legislative appropriation~~
- 25 ~~for fiscal year 1995-1996 and thereafter, the money in the~~
- 26 ~~Inmate Welfare Trust Fund must be used exclusively for the~~
- 27 ~~following purposes at correctional facilities operated~~
- 28 ~~directly by the department:~~
- 29 1. To operate inmate canteens and vending machines,
- 30 including purchasing ~~purchase~~ items for resale at ~~the~~ inmate
- 31 canteens and ~~or~~ vending machines, ~~maintained at the~~

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1 ~~correctional facilities;~~
2 2. ~~employing~~ To employ personnel and inmates to
3 manage, supervise, and operate inmate ~~the~~ canteens and vending
4 machines, ~~at the correctional facilities;~~
5 3. ~~and covering other~~ For operating and fixed capital
6 outlay expenses associated with operating ~~the operation of~~
7 inmate canteens and vending machines;
8 2.4. To employ personnel to manage and supervise the
9 proceeds from telephone commissions;
10 3. To develop, implement, and maintain the medical
11 copayment accounting system;
12 4.5. ~~To employ personnel for correctional education~~ To
13 provide literacy programs, vocational training programs, and
14 educational academic programs that comply with standards of
15 the Department of Education, including employing personnel and
16 covering other;
17 6. ~~For~~ operating and fixed capital outlay expenses
18 associated with providing such programs ~~the delivery to~~
19 ~~inmates of literacy programs, vocational training, and~~
20 ~~academic programs that comply with standards of the Department~~
21 ~~of Education;~~
22 5.7. To operate inmate chapels, faith-based programs,
23 visiting pavilions, libraries, and law libraries, including
24 employing personnel and covering other For operating and fixed
25 capital outlay expenses associated with operating ~~the~~
26 ~~operation of inmate chapels, faith-based programs, visiting~~
27 pavilions, libraries, and law libraries ~~visiting pavilions;~~
28 8. ~~To employ personnel to operate the libraries,~~
29 ~~chapels, and visiting pavilions;~~
30 6.9. To provide for expenses associated with various
31 inmate clubs;

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1 ~~7.10.~~ To provide for expenses associated with legal
2 services for inmates;

3 ~~8.11. To employ personnel~~ To provide inmate substance
4 abuse treatment programs and transition and life skills
5 training programs, including employing personnel and

6 ~~12. covering other~~ For operating and fixed capital
7 outlay expenses associated with providing such programs ~~the~~
8 ~~delivery of inmate substance abuse treatment and transition~~
9 ~~and life skills training programs.~~

10 (c) The Legislature shall annually appropriate the
11 funds deposited in the Inmate Welfare Trust Fund. It is the
12 intent of the Legislature that total annual expenditures for
13 providing literacy programs, vocational training programs, and
14 educational programs exceed the combined items listed in
15 subparagraphs 5. and 6. must exceed the total annual
16 expenditures for operating inmate chapels, faith-based
17 programs, visiting pavilions, libraries, and law libraries,
18 covering expenses associated with inmate clubs, and providing
19 inmate substance abuse treatment programs and transition and
20 life skills training programs ~~items listed in subparagraphs 7.~~
21 ~~through 12.~~

22 (d) Funds in the Inmate Welfare Trust Fund or any
23 other fund may not be used to purchase cable television
24 service, to rent or purchase videocassettes, videocassette
25 recorders, or other audiovisual or electronic equipment used
26 primarily for recreation purposes. This paragraph does not
27 preclude the purchase or rental of electronic or audiovisual
28 equipment for inmate training or educational programs. The
29 ~~department shall develop administrative procedures to verify~~
30 ~~that contracted telephone commissions are being received, that~~
31 ~~persons who have accepted collect calls from inmates are being~~

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1 ~~charged the contracted rate, and that contracted telephone~~
2 ~~companies are accurately and completely recording and~~
3 ~~reporting all inmate telephone calls made.~~

4 ~~(c) There shall be deposited in the Inmate Welfare~~
5 ~~Trust Fund all net proceeds from the operation of canteens,~~
6 ~~vending machines, hobby shops, and other such facilities and~~
7 ~~any moneys that may be assigned by the inmates or donated to~~
8 ~~the department by the general public or an inmate service~~
9 ~~organization for deposit in the fund. However, the department~~
10 ~~shall refuse to accept any donations from or on behalf of any~~
11 ~~individual inmate. The moneys of the fund shall constitute a~~
12 ~~trust held by the department for the benefit and welfare of~~
13 ~~the inmates of the institutions under the jurisdiction of the~~
14 ~~department.~~

15 ~~(d) There shall be deposited in the Inmate Welfare~~
16 ~~Trust Fund such moneys as constitute repayment of the one-time~~
17 ~~sum appropriated pursuant to s. 946.008.~~

18 ~~(e) Any contraband found upon, or in the possession~~
19 ~~of, any inmate in any institution under the jurisdiction of~~
20 ~~the department shall be confiscated and liquidated, and the~~
21 ~~proceeds thereof shall be deposited in the Inmate Welfare~~
22 ~~Trust Fund of the department.~~

23 ~~(f) The secretary of the department or the secretary's~~
24 ~~designee may invest in the manner authorized by law for~~
25 ~~fiduciaries any money in the Inmate Welfare Trust Fund of the~~
26 ~~department that in his or her opinion is not necessary for~~
27 ~~immediate use, and the interest earned and other increments~~
28 ~~derived from such investments made pursuant to this section~~
29 ~~shall be deposited in the Inmate Welfare Trust Fund of the~~
30 ~~department.~~

31 ~~(e)(g)~~ Items for resale at the inmate canteens and or

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1 vending machines maintained at the correctional facilities
2 shall be priced comparatively with like items for retail sale
3 at fair market prices.

4 (f)(h) Notwithstanding any other provision of law,
5 inmates with sufficient balances in their individual inmate
6 bank trust fund accounts, after all debts against the account
7 are satisfied, shall be allowed to request a weekly draw of up
8 to \$45 to be expended for personal use on canteen and vending
9 machine items.

10 (g) The department shall annually compile a report
11 that specifically documents Inmate Welfare Trust Fund receipts
12 and expenditures. This report shall be compiled at both the
13 statewide and institutional levels. The department must submit
14 this report for the previous fiscal year by September 1 of
15 each year to the chairs of the appropriate substantive and
16 fiscal committees of the Senate and the House of
17 Representatives and to the Executive Office of the Governor.

18 (2) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE
19 TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.--

20 (a) For purposes of this subsection, privately
21 operated institutions or private correctional facilities are
22 those correctional facilities under contract with the
23 department pursuant to chapter 944 or the Correctional
24 Privatization Commission pursuant to chapter 957.

25 (b)1. The net proceeds derived from inmate canteens,
26 vending machines used primarily by inmates, telephone
27 commissions, and similar sources at private correctional
28 facilities shall be deposited in the Privately Operated
29 Institutions Inmate Welfare Trust Fund.

30 2. Funds in the Privately Operated Institutions Inmate
31 Welfare Trust Fund shall be expended only pursuant to

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1 legislative appropriation.

2 (c) The Correctional Privatization Commission shall
 3 annually compile a report that documents Privately Operated
 4 Institutions Inmate Welfare Trust Fund receipts and
 5 expenditures at each private correctional facility. This
 6 report must specifically identify receipt sources and
 7 expenditures. The Correctional Privatization Commission shall
 8 compile this report for the prior fiscal year and shall submit
 9 the report by September 1 of each year to the chairs of the
 10 appropriate substantive and fiscal committees of the Senate
 11 and House of Representatives and to the Executive Office of
 12 the Governor.

13 (3) EMPLOYEE BENEFIT TRUST FUND; DEPARTMENT OF
 14 CORRECTIONS.--

15 (a) The department may establish an Employee Benefit
 16 Trust Fund. Trust fund sources may be derived from any of the
 17 following:

18 1.(a) Proceeds of vending machines or other such
 19 services not intended for use by inmates.

20 2.(b) Donations, except donations by, or on behalf of,
 21 an individual inmate.

22 3.(c) Additional trust funds and grants which may
 23 become available.

24 (b) Funds from the Employee Benefit Trust Fund ~~Such~~
 25 fund shall be maintained and audited separately and apart from
 26 the Inmate Welfare Trust Fund. Portions of the fund may be
 27 used to construct, operate, and maintain training and
 28 recreation facilities at correctional facilities for the
 29 exclusive use of department employees ~~respective institutions.~~
 30 Such facilities are ~~shall be~~ the property of the department
 31 and ~~must shall~~ provide the maximum benefit to all interested

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1 ~~employees, regardless of gender of both sexes, including~~
2 ~~teachers, clerical staff, medical and psychological services~~
3 ~~personnel, and officers and administrators.~~

4 Section 5. Paragraph (d) of subsection (2) of section
5 944.803, Florida Statutes, is amended to read:

6 944.803 Faith-based programs for inmates.--

7 (2) It is the intent of the Legislature that the
8 Department of Corrections and the private vendors operating
9 private correctional facilities shall continuously:

10 (d) Fund through the use of ~~the~~ inmate welfare trust
11 funds ~~fund~~ pursuant to s. 945.215 an adequate number of
12 chaplains and support staff to operate faith-based ~~chaplaincy~~
13 programs in ~~state~~ correctional institutions.

14 Section 6. Section 945.31, Florida Statutes, is
15 amended to read:

16 945.31 Restitution and other payments.--The department
17 may establish bank accounts outside the State Treasury for the
18 purpose of collecting and disbursing restitution and other
19 court-ordered payments from persons in its custody or under
20 its supervision, and may collect an administrative processing
21 fee in an amount equal to 4 percent of the gross amounts of
22 such payments. Such administrative processing fee shall be
23 deposited in the department's Operating Grants and Donations
24 Trust Fund and shall be used to offset the cost of the
25 department's services.

26 Section 7. Section 945.76, Florida Statutes, is
27 amended to read:

28 945.76 Certification and monitoring of batterers'
29 intervention programs; fees.--

30 (1) Pursuant to s. 741.32, the Department of
31 Corrections is authorized to assess and collect:

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1 (a) An annual certification fee ~~fees~~ not to exceed
 2 \$300 for the certification and monitoring of batterers'
 3 intervention programs ~~certified by the Department of~~
 4 ~~Corrections' Office of Certification and Monitoring of~~
 5 ~~Batterers' Intervention Programs and.~~

6 (b) An annual certification fee not to exceed \$200 for
 7 the certification and monitoring of assessment personnel
 8 providing direct services to persons who:

9 1.(a) Are ordered by the court to participate in a
 10 domestic violence prevention program;

11 2.(b) Are adjudged to have committed an act of
 12 domestic violence as defined in s. 741.28;

13 3.(c) Have an injunction entered for protection
 14 against domestic violence; or

15 4.(d) Agree to attend a program as part of a diversion
 16 or pretrial intervention agreement by the offender with the
 17 state attorney.

18 (2) All persons required by the court to attend
 19 domestic violence programs certified by the Department of
 20 Corrections' Office of Certification and Monitoring of
 21 Batterers' Intervention Programs shall pay an additional \$30
 22 fee for each 29-week program to the Department of Corrections.

23 (3) The fees assessed and collected under this section
 24 ~~fee~~ shall be deposited in the department's Operating Grants
 25 ~~and Donations~~ Trust Fund ~~to be used by the department~~ to fund
 26 the cost of certifying and monitoring batterers' intervention
 27 programs.

28 Section 8. Subsection (7) of section 944.10, Florida
 29 Statutes, is amended to read:

30 944.10 Department of Corrections to provide buildings;
 31 sale and purchase of land; contracts to provide services and

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1 inmate labor.--

2 (7) The department may enter into contracts with
3 federal, state, or local governmental entities or subdivisions
4 to provide services and inmate labor for the construction of
5 buildings, parks, roads, any detention or commitment
6 facilities, or any other project deemed to be appropriate by
7 the Department of Corrections, which may include, but is not
8 limited to, the planning, design, site acquisition or
9 preparation, management, or construction of such projects. The
10 department may charge fees for providing such services. All
11 fees collected must be placed in the Correctional Work Program
12 ~~Grants and Donations~~ Trust Fund.

13 Section 9. Subsection (2) of section 948.09, Florida
14 Statutes, is amended to read:

15 948.09 Payment for cost of supervision and
16 rehabilitation.--

17 (2) Any person being electronically monitored by the
18 department as a result of placement on community control shall
19 be required to pay a \$1-per-day surcharge in addition to the
20 cost of supervision fee as directed by the sentencing court.
21 The surcharge shall be deposited in the Operating Grants and
22 ~~Donations~~ Trust Fund to be used by the department for
23 purchasing and maintaining electronic monitoring devices.

24 Section 10. Subsection (10) of section 951.23, Florida
25 Statutes, is amended to read:

26 951.23 County and municipal detention facilities;
27 definitions; administration; standards and requirements.--

28 (10) Nothing in this section prohibits the governing
29 board of a county or municipality to enter into an agreement
30 with the Department of Corrections authorizing the department
31 to inspect the local detention facilities under the

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1 jurisdiction of the governing body. A governing board of a
2 county or municipality may enter into such agreements with the
3 department upon consultation with the sheriff if the sheriff
4 operates the detention facility. The inspections performed by
5 the department shall be consultatory in nature and for the
6 purpose of advising the local governing bodies concerning
7 compliance with the standards adopted by the detention
8 facility's chief correctional officer. Such agreements must
9 include, but are not limited to, provisions for the physical
10 and operational standards that were adopted by the chief
11 correctional officer of the detention facility, the manner and
12 frequency of inspections to be conducted by the department,
13 whether such inspections are to be announced or unannounced by
14 the department, the type of access the department may have to
15 the detention facility, and the amount of payment by the local
16 governing body, if any, for the services rendered by the
17 department. Inspections and access to local detention
18 facilities shall not interfere with custody of inmates or the
19 security of the facilities as determined by the chief
20 correctional officer of each facility. Any fees collected by
21 the department pursuant to such agreements must be deposited
22 into the Operating Grants and Donations Trust Fund and shall
23 be used to pay the cost of the services provided by the
24 department to monitor local detention facilities pursuant to
25 such agreements. This subsection shall be repealed effective
26 October 1, 1999.

27 Section 11. Section 386.213, Florida Statutes, is
28 created to read:

29 386.213 Smoking prohibited inside state correctional
30 facilities.--

31 (1) The purpose of this section is to protect the

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1 health, comfort, and environment of employees of the
2 Department of Corrections, employees of privately operated
3 correctional facilities, employees of the Correctional
4 Privatization Commission, and inmates by prohibiting inmates
5 from using tobacco products inside any offices or buildings
6 within state correctional facilities, and by ensuring that
7 employees and visitors do not use tobacco products inside any
8 office or building within state correctional facilities.
9 Scientific evidence links the use of tobacco products with
10 numerous significant health risks. The use of tobacco products
11 by inmates, employees, or visitors is contrary to efforts by
12 the Department of Corrections to reduce the costs of inmate
13 health care and to limit unnecessary litigation. The
14 Department of Corrections and the private vendors operating
15 correctional facilities shall make smoking cessation
16 assistance available to inmates in order to implement this
17 section. The Department of Corrections and the private vendors
18 operating correctional facilities shall implement this section
19 as soon as possible, and all provisions of this section must
20 be fully implemented by January 1, 1999.

21 (2) As used in this section, the term:
22 (a) "Department" means the Department of Corrections.
23 (b) "Employee" means an employee of the department or
24 a private vendor in a contractual relationship with either the
25 Department of Corrections or the Correctional Privatization
26 Commission, and includes persons such as contractors,
27 volunteers, or law enforcement officers who are within a state
28 correctional facility to perform a professional service.
29 (c) "State correctional facility" means a state or
30 privately operated correctional institution as defined in s.
31 944.02, or a correctional institution or facility operated

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1 under s. 944.105 or chapter 957.

2 (d) "Tobacco products" means items such as cigars,
3 cigarettes, snuff, loose tobacco, or similar goods made with
4 any part of the tobacco plant, which are prepared or used for
5 smoking, chewing, dipping, sniffing, or other personal use.

6 (e) "Visitor" means any person other than an inmate or
7 employee who is within a state correctional facility for a
8 lawful purpose and includes, but is not limited to, persons
9 who are authorized to visit state correctional institutions
10 pursuant to s. 944.23, and persons authorized to visit as
11 prescribed by departmental rule or vendor policy.

12 (f) "Prohibited areas" means any indoor areas of any
13 building, portable or other enclosed structure within a state
14 correctional facility.

15 (3)(a) An inmate within a state correctional facility
16 may not use tobacco products in prohibited areas at any time
17 while in the custody of the department or under the
18 supervision of a private vendor operating a correctional
19 facility.

20 (b)1. An employee or visitor may not use any tobacco
21 products in prohibited areas.

22 2. The superintendent, warden, or supervisor of a
23 state correctional facility shall take reasonable steps to
24 ensure that the tobacco prohibition for employees and visitors
25 is strictly enforced.

26 (4) An inmate who violates this section commits a
27 disciplinary infraction and is subject to punishment
28 determined to be appropriate by the disciplinary authority in
29 the state correctional facility, including, but not limited
30 to, forfeiture of gain-time or the right to earn gain-time in
31 the future under s. 944.28.

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1 (5) The department may adopt rules and the private
2 vendors operating correctional facilities may adopt policies
3 and procedures for the designation of prohibited areas and
4 smoking areas and for the imposition of penalties pursuant to
5 this section. For the purposes of this section, the
6 designation of prohibited areas shall not include employee
7 housing on the grounds of a state correctional facility or
8 maximum security inmate housing areas.

9 Section 12. Subsection (1) of section 386.203, Florida
10 Statutes, is amended to read:

11 386.203 Definitions.--As used in this part:

12 (1) "Public place" means the following enclosed,
13 indoor areas used by the general public:

14 (a) Government buildings;

15 (b) Public means of mass transportation and their
16 associated terminals not subject to federal smoking
17 regulation;

18 (c) Elevators;

19 (d) Hospitals;

20 (e) Nursing homes;

21 (f) Educational facilities;

22 (g) Public school buses;

23 (h) Libraries;

24 (i) Courtrooms;

25 (j) Jury waiting and deliberation rooms;

26 (k) Museums;

27 (l) Theaters;

28 (m) Auditoriums;

29 (n) Arenas;

30 (o) Recreational facilities;

31 (p) Restaurants which seat more than 50 persons;

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1 (q) Retail stores, except a retail store the primary
2 business of which is the sale of tobacco or tobacco related
3 products;

4 (r) Grocery stores;

5 (s) Places of employment;

6 (t) Health care facilities;

7 (u) Day care centers; ~~and~~

8 (v) Common areas of retirement homes and
9 condominiums; and

10 (w) State correctional facilities.

11 Section 13. Section 945.10, Florida Statutes, is
12 amended to read:

13 945.10 Confidential information; illegal acts;
14 penalties.--

15 (1) Except as otherwise provided by law or in this
16 section, the following records and information of the
17 Department of Corrections are confidential and exempt from the
18 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
19 Constitution:

20 (a) Mental health, medical, or substance abuse records
21 of an inmate or an offender.

22 (b) Preplea, pretrial intervention, presentence or
23 postsentence investigative records.

24 (c) Information regarding a person in the federal
25 witness protection program.

26 (d) Parole Commission records which are confidential
27 or exempt from public disclosure by law.

28 (e) Information which if released would jeopardize a
29 person's safety.

30 (f) Information concerning a victim's statement and
31 identity.

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- 1 (g) The identity of an executioner.
- 2 (h) Records that are otherwise confidential or exempt
- 3 from public disclosure by law.
- 4 (2) The records and information specified in
- 5 paragraphs (1)(b)-(h) may be released as follows unless
- 6 expressly prohibited by federal law:
- 7 (a) Information specified in paragraphs (1)(b), (d),
- 8 and (f) to the Office of the Governor, the Legislature, the
- 9 Parole Commission, the Department of Health and Rehabilitative
- 10 Services, a private correctional facility or program that
- 11 operates under a contract, the Department of Legal Affairs, a
- 12 state attorney, the court, or a law enforcement agency. A
- 13 request for records or information pursuant to this paragraph
- 14 need not be in writing.
- 15 (b) Information specified in paragraphs (1)(c), (e),
- 16 and (h) to the Office of the Governor, the Legislature, the
- 17 Parole Commission, the Department of Health and Rehabilitative
- 18 Services, a private correctional facility or program that
- 19 operates under contract, the Department of Legal Affairs, a
- 20 state attorney, the court, or a law enforcement agency. A
- 21 request for records or information pursuant to this paragraph
- 22 must be in writing and a statement provided demonstrating a
- 23 need for the records or information.
- 24 (c) Information specified in paragraph (1)(b) to an
- 25 attorney representing an inmate under sentence of death,
- 26 except those portions of the records containing a victim's
- 27 statement or address, or the statement or address of a
- 28 relative of the victim. A request for records of information
- 29 pursuant to this paragraph must be in writing and a statement
- 30 provided demonstrating a need for the records or information.
- 31 (d) Information specified in paragraph (1)(b) to a

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1 public defender representing a defendant, except those
2 portions of the records containing a victim's statement or
3 address, or the statement or address of a relative of the
4 victim. A request for records or information pursuant to this
5 paragraph need not be in writing.

6 (e) Information specified in paragraph (1)(b) to state
7 or local governmental agencies. A request for records or
8 information pursuant to this paragraph must be in writing and
9 a statement provided demonstrating a need for the records or
10 information.

11 (f) Information specified in paragraph (1)(b) to a
12 person conducting legitimate research. A request for records
13 and information pursuant to this paragraph must be in writing,
14 the person requesting the records or information must sign a
15 confidentiality agreement, and the department must approve the
16 request in writing.

17
18 Records and information released under this subsection remain
19 confidential and exempt from the provisions of s. 119.07(1)
20 and s. 24(a), Art. I of the State Constitution when held by
21 the receiving person or entity.

22 (3) Due to substantial concerns regarding
23 institutional security and unreasonable and excessive demands
24 on personnel and resources if an inmate or an offender has
25 unlimited or routine access to records of the Department of
26 Corrections, an inmate or an offender who is under the
27 jurisdiction of the department may not have unrestricted
28 access to the department's records or to information contained
29 in the department's records. However, except as to another
30 inmate's or offender's records, the department may permit
31 limited access to its records if an inmate or an offender

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1 makes a written request and demonstrates an exceptional need
2 for information contained in the department's records and the
3 information is otherwise unavailable. Exceptional
4 circumstances include, but are not limited to:

5 (a) The inmate or offender requests documentation to
6 resolve a conflict between the inmate's court documentation
7 and the commitment papers or court orders received by the
8 department regarding the inmate or offender.

9 (b) The inmate's or offender's release is forthcoming
10 and a prospective employer requests, in writing, documentation
11 of the inmate's or offender's work performance.

12 (c) The inmate or offender needs information
13 concerning the amount of victim restitution paid during the
14 inmate's or offender's incarceration.

15 (d) The requested records contain information required
16 to process an application or claim by the inmate or offender
17 with the Internal Revenue Service, the Social Security
18 Administration, the Department of Labor and Employment
19 Security, or any other similar application or claim with a
20 state agency or federal agency.

21 (e) The inmate or offender wishes to obtain the
22 current address of a relative whose address is in the
23 department's records and the relative has not indicated a
24 desire not to be contacted by the inmate or offender.

25 (f) Other similar circumstances that do not present a
26 threat to the security, order, or rehabilitative objectives of
27 the correctional system or to any person's safety.

28 (4) The Department of Corrections shall adopt rules to
29 prevent disclosure of confidential records or information to
30 unauthorized persons.

31 (5) The Department of Corrections and the Parole

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1 Commission shall mutually cooperate with respect to
2 maintaining the confidentiality of records that are exempt
3 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
4 the State Constitution.

5 (6)(a) As used in this subsection:

6 1. The term "personal information about another
7 person" means the home addresses, telephone numbers, social
8 security numbers, and photographs of health care clinicians of
9 the Department of Corrections who are licensed or certified
10 pursuant to chapter 458, chapter 459, chapter 464, chapter
11 465, chapter 466, or chapter 490 and of educational personnel
12 of the Department of Corrections who are certified pursuant to
13 s. 231.17 and of other state officers and employees whose
14 duties are performed in whole or in part in state correctional
15 institutions; the home addresses, telephone numbers, social
16 security numbers, photographs, and places of employment of the
17 spouses and children of such persons; and the names and
18 locations of schools and day care facilities attended by the
19 children of such persons.

20 2. The terms "another person" and "such person" mean
21 any person described in subparagraph 1.

22 3. The term "harass" means engaging in a course of
23 conduct directed at another person which causes substantial
24 emotional distress to such person and serves no legitimate
25 purpose.

26 (b) An inmate or offender in the correctional system
27 or under correctional supervision, whether on parole,
28 probation, postrelease supervision, or any other form of
29 supervision, is prohibited from disclosing or using personal
30 information about another person with the intent to obtain a
31 benefit from, harass, harm, or defraud such person. Any inmate

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1 or offender who violates this section commits a felony of the
2 third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084.

4 (c) An inmate or offender who has been convicted of an
5 offense under paragraph (b) is prohibited from subsequently
6 participating in any correctional work or other correctional
7 program that provides inmates or offenders with access to
8 personal information about persons who are not in the
9 correctional system or under correctional supervision. If,
10 during a term of imprisonment, an inmate or offender is
11 convicted of the offense under paragraph (b), the inmate or
12 offender shall be subject to forfeiture of all or any part of
13 his or her gain-time pursuant to rules adopted by the
14 department. The department may adopt rules to prohibit the
15 subsequent participation of an inmate who has been convicted
16 of an offense under paragraph (b) in any correctional work or
17 other correctional program that provides inmates access to
18 personal information about another person. The department may
19 also adopt rules to implement the forfeiture or deletion of
20 gain-time.

21 Section 14. Subsection (5) of section 99.012, Florida
22 Statutes, is amended to read:

23 99.012 Restrictions on individuals qualifying for
24 public office.--

25 (5)(a) A person who is a subordinate officer, deputy
26 sheriff, or police officer must need not resign effective upon
27 qualifying, pursuant to Chapter 99, F.S., if pursuant to this
28 section unless the person is seeking to qualify for a public
29 office which is currently held by an officer who has authority
30 to appoint, employ, promote, or otherwise supervise that
31 person and who has qualified as a candidate for reelection to

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1 that office.

2 (b) ~~However,~~ Upon qualifying pursuant to Chapter 99,
3 F.S., a ~~the~~ subordinate officer, deputy sheriff, or police
4 officer who is seeking public office and who is not required
5 to resign under paragraph (a) must take a leave of absence
6 without pay during the period in which he or she is a
7 candidate for office.

8 Section 15. Section 922.11, Florida Statutes, is
9 amended to read:

10 922.11 Regulation of execution.--

11 (1) The superintendent of the state prison or a deputy
12 designated by him or her shall be present at the execution.
13 The superintendent shall set the day for execution within the
14 week designated by the Governor in the warrant.

15 (2) Twelve citizens selected by the superintendent
16 shall witness the execution. A qualified physician shall be
17 present and announce when death has been inflicted. Counsel
18 for the convicted person and ministers of religion requested
19 by the convicted person may be present. Representatives of
20 news media may be present under rules approved by the
21 Secretary of Corrections. All other persons, except prison
22 officers and correctional officers, shall be excluded during
23 the execution.

24 (3) The body of the executed person shall be delivered
25 to the medical examiner for an autopsy. After completion of
26 the autopsy, the body shall be prepared for burial and, if
27 requested, released to relatives of the deceased. If a coffin
28 has not been provided by relatives, the body shall be
29 delivered in a plain coffin. If the body is not claimed by
30 relatives, it shall be given to physicians who have requested
31 it for dissection or to be disposed of in the same manner as

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1 are bodies of prisoners dying in the state prison.

2 (4) No electronic or mechanical devices, including,
3 but not limited to, still or moving picture recorders,
4 videotape recorders, or similar devices, or artistic
5 paraphernalia shall be permitted in the execution observation
6 room.

7 Section 16. The proviso language immediately preceding
8 Specific Appropriation 962 and the proviso language following
9 Specific Appropriation 620 in the Conference Report On House
10 Bill 4201 which is the General Appropriations Act for fiscal
11 year 1998-1999, shall not be deemed, in whole or in part, to
12 be repealed, nullified or modified in any way by legislation
13 passed during the 1998 regular session of the Legislature
14 unless the legislation makes specific reference to this
15 section. If either the proviso language immediately preceding
16 Specific Appropriation 962 and the proviso language following
17 Specific Appropriation 620 in the Conference Report On House
18 Bill 4201 are repealed or amended by substantive legislation
19 passed during the 1998 regular session of the Legislature,
20 then both sections of proviso are hereby reenacted in full and
21 shall have their full effect as written in the Conference
22 Report On House Bill 4201. This section is hereby repealed on
23 June 30, 1999.

24 Section 17. Paragraph (f) of subsection (3) and
25 paragraph (c) of subsection (4) of section 957.03, Florida
26 Statutes, are amended, and paragraphs (d), (e), and (f) are
27 added to subsection (4) of said section, to read:

28 957.03 Correctional Privatization Commission.--

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

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

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1 majority of the members of the commission constitutes a
2 quorum. An action of the commission is not binding unless the
3 action is taken pursuant to an affirmative vote of a majority
4 of the members present, but not fewer than three members of
5 the commission must be present. The vote must be recorded in
6 the minutes of the meeting.

7 (4) DUTIES.--

8 (c) The commission must report to the Speaker of the
9 House of Representatives and the President of the Senate by
10 December 1 each year on the status and effectiveness of the
11 facilities under its management. ~~Each report must also~~
12 ~~include a comparison of recidivism rates for inmates of~~
13 ~~private correctional facilities to the recidivism rates for~~
14 ~~inmates of comparable facilities managed by the department.~~

15 (d) In its request for proposals, the commission may
16 authorize the contractor to use inmate labor to assist in the
17 construction of the facility. The Department of Corrections
18 shall assign inmate work crews at the request of the
19 commission and the contractor.

20 (e) In the renegotiation or origination of contracts
21 on or after the effective date of this act, the commission may
22 authorize the contractors to use selected inmates in public
23 work programs pursuant to ss. 946.40 and 946.41. If inmates
24 are placed in public work programs, the private contractor
25 shall develop security procedures which shall ensure the
26 safety of the public, and the commission and the department
27 shall approve such procedures.

28 (f) In the renegotiation or origination of contracts
29 on or after the effective date of this act, the commission
30 shall require each contractor to develop and annually report
31 to the Legislature outcome performance measures similar to

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1 those included in the General Appropriations Act for the
2 department pursuant to s. 216.0166.

3 Section 18. Section 957.031, Florida Statutes, is
4 created to read:

5 957.031 Prohibited conduct by commission member,
6 employee, consultant, or adviser.--

7 (1) Any commission member, employee, or consultant who
8 reviews, monitors, or approves private correctional facility
9 contracts, or who advises the commission in any manner with
10 respect to private correctional facilities, may not:

11 (a) Solicit or accept, directly or indirectly, any
12 personal benefit or promise of benefit from any bidders,
13 potential bidders, or contractors; or

14 (b) Be an officer, director, trustee, stockholder, or
15 investor in any business entity that:

16 1. Has a business relationship of any kind with the
17 commission;

18 2. Is owned or controlled by a business entity that
19 has a business relationship of any kind with the commission;
20 or

21 3. Is owned or controlled by one or more individuals
22 or business entities who, separately or collectively, own or
23 control a business entity that has a business relationship of
24 any kind with the commission.

25 (2) This section shall not be construed to conflict
26 with s. 112.313, s. 112.3145, or s. 112.3148.

27 Section 19. Section 957.06, Florida Statutes, is
28 amended to read:

29 957.06 Powers and duties not delegable to
30 contractor.--A contract entered into under this chapter does
31 not authorize, allow, or imply a delegation of authority to

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1 the contractor to:

2 (1) Make a final determination on the custody
3 classification of an inmate. The contractor may submit a
4 recommendation for a custody change on an inmate; however, any
5 recommendation made shall be in compliance with the
6 department's custody classification system.

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

17 (3) Develop or adopt disciplinary rules or penalties
18 that differ from the disciplinary rules and penalties that
19 apply to inmates housed in correctional facilities operated by
20 the department.

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

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

30 (6) Make recommendations to the Parole Commission with
31 respect to the denial or granting of parole, control release,

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1 conditional release, or conditional medical release. However,
2 the contractor may submit written reports to the Parole
3 Commission and must respond to a written request by the Parole
4 Commission for information.

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

9 (8) Determine inmate eligibility for any form of
10 conditional, temporary, or permanent release from a
11 correctional facility.

12 Section 20. Section 957.061, Florida Statutes, is
13 created to read:

14 957.061 Cooperative transfer agreement.--The
15 commission, the contractor, and a representative of the
16 department shall develop and implement a cooperative transfer
17 agreement for each private correctional facility for
18 transferring inmates between a correctional facility operated
19 by the department and the private correctional facility. The
20 department, the commission, and the contractor must comply
21 with the cooperative transfer agreement.

22 Section 21. Section 957.08, Florida Statutes, is
23 amended to read:

24 957.08 Capacity requirements.--The department shall
25 transfer and assign inmates ~~prisoners~~, at a rate ~~to be~~
26 determined by contract ~~the commission~~, to each private
27 correctional facility opened pursuant to this chapter in an
28 amount not less than 90 percent or more than 100 percent of
29 the capacity of the facility pursuant to the contract with the
30 commission. The types of inmates ~~prisoners~~ transferred by the
31 department shall conform to the cooperative transfer agreement

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1 developed pursuant to s. 957.061 and represent a cross section
2 of the general inmate population, based on the grade of
3 custody or the offense of conviction, the physical and mental
4 health grade, and the level of education,at the most
5 comparable facility operated by the department.

6 Section 22. Subsection (2) of section 957.125, Florida
7 Statutes, is amended to read:

8 957.125 Correctional facilities for youthful
9 offenders.--

10 (2) ~~These~~ Youthful offender facilities contracted
11 under this chapter shall be designed to provide the optimum
12 capacity for programs for youthful offenders designed to
13 reduce recidivism, including, but not limited to: educational
14 and vocational programs, substance abuse and mental health
15 counseling, prerelease orientation and planning, job and
16 career counseling, physical exercise, dispute resolution, and
17 life skills training. In order to ensure this quality
18 programming, the commission shall give no more than 30 percent
19 weight to cost in evaluating proposals.

20 Section 23. The Corrections Commission shall conduct
21 an in-depth analysis and develop legislative proposals for the
22 fiscal year 1999-2000 on the future and expanded use of
23 technology and private services contracts in all aspects of
24 corrections ranging from prison management, mobile surgical
25 units, prison industry, health care, food services, inmate
26 transportation, pharmaceutical products, canteen services,
27 distance learning programs, victim notification hotlines,
28 satellite tracking of offenders, inmate legal services, and
29 community supervision. The analysis shall, at a minimum:
30 identify cost efficiencies, technological innovations, and
31 best corrections practices at both private and public

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1 correctional programs; identify bureaucratic and legal
2 barriers that prevent or nullify effective cost containment
3 strategies in both private and public corrections; determine
4 ways to reduce inmate idleness through partnerships with
5 private industries; and produce plans for the most effective
6 use of general and specialized private sector services in
7 corrections. The Corrections Commission shall report its
8 findings and recommendations to the Governor and Legislature
9 in its 1998 annual report.

10 Section 24. For fiscal year 1998-1999, the
11 Correctional Privatization Commission shall contract with an
12 academic researcher to produce a study comparing recidivism
13 rates for inmates of private correctional facilities to
14 recidivism rates for inmates of comparable facilities managed
15 by the Department of Corrections. Beginning fiscal year
16 1998-1999, the methodology and sampling strategy shall be
17 developed by consensus and unanimously approved by the
18 director of the Division of Economic and Demographic Research
19 of the Joint Legislative Management Committee, or successor
20 entity, one professional staff person who has research
21 expertise from the Department of Corrections, and the academic
22 researcher retained by the Correctional Privatization
23 Commission. The methodology and sampling strategy developed
24 shall be adhered to in all subsequent and independent analyses
25 or reports produced for the commission on such recidivism
26 rates. The academic researcher under contract to the
27 commission as well as the researchers for the Department of
28 Corrections and the Division of Economic and Demographic
29 Research, or successor entity, shall independently analyze the
30 data collected pursuant to this section and shall collaborate
31 on a single report. This report shall be submitted to the

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1 Speaker of the House of Representatives and the President of
2 the Senate not later than February 1, 1999. The December 1,
3 1998, report by the commission pursuant to s. 957.03(4)(c),
4 Florida Statutes, need not contain a comparison of recidivism
5 rates for inmates of private correctional facilities to the
6 recidivism rates for inmates of comparable facilities managed
7 by the Department of Corrections.

8 Section 25. Subsections (1), (3), and (4) of section
9 957.125, section 944.711, and subsection (8) of section
10 957.04, Florida Statutes, are repealed.

11 Section 26. Section 945.603, Florida Statutes, is
12 amended to read:

13 945.603 Powers and duties of authority.--The purpose
14 of the authority is to assist in the delivery of health care
15 services for inmates in the legal custody of the Department of
16 Corrections by advising the Secretary of Corrections and the
17 chairman of the Correctional Privatization Commission on the
18 professional conduct of primary, convalescent, dental, and
19 mental health care and the management of costs consistent with
20 quality care, by advising the Governor and the Legislature on
21 the status of the inmate ~~Department of Corrections~~ health
22 care delivery system, and by assuring that adequate standards
23 of physical and mental health care for inmates are maintained
24 at all Department of Corrections institutions and at all
25 private correctional facilities. For this purpose, the
26 authority has the authority to:

27 (1) Review and advise the Secretary of Corrections on
28 cost containment measures the Department of Corrections could
29 implement.

30 (2) Review and make recommendations regarding health
31 care for the delivery of health care services including, but

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1 not limited to, acute hospital-based services and facilities,
2 primary and tertiary care services, ancillary and clinical
3 services, dental services, mental health services, intake and
4 screening services, medical transportation services, and the
5 use of nurse practitioner and physician assistant personnel to
6 act as physician extenders as these relate to inmates in the
7 legal custody of the Department of Corrections.

8 (3) Develop and recommend to the Governor and the
9 Legislature an annual budget for all or part of the operation
10 of the State of Florida prison health care system.

11 (4) Review and advise the Secretary of Corrections and
12 the Correctional Privatization Commission on contracts between
13 the Department of Corrections or private vendors and third
14 parties for quality management programs.

15 (5) Review and advise the Secretary of Corrections and
16 the Correctional Privatization Commission on minimum standards
17 needed to ensure that an adequate physical and mental health
18 care delivery system is maintained by the Department of
19 Corrections and by the private vendors under contract pursuant
20 to chapters 957 and 944.

21 (6) Review and advise the Secretary of Corrections on
22 the sufficiency, adequacy, and effectiveness of the Department
23 of Corrections' Office of Health Services' quality management
24 program.

25 (7) Review and advise the Secretary of Corrections on
26 the projected medical needs of the inmate population and the
27 types of programs and resources required to meet such needs.

28 (8) Review and advise the Secretary of Corrections on
29 the adequacy of preservice, inservice, and continuing medical
30 education programs for all health care personnel and, if
31 necessary, recommend changes to such programs within the

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1 Department of Corrections.

2 (9) Identify and recommend to the Secretary of
3 Corrections the professional incentives required to attract
4 and retain qualified professional health care staff within the
5 prison health care system.

6 (10) Coordinate the development of prospective payment
7 arrangements as described in s. 408.50 when appropriate for
8 the acquisition of inmate health care services.

9 (11) Review the Department of Corrections' health
10 services plan and advise the Secretary of Corrections on its
11 implementation.

12 (12) Sue and be sued in its own name and plead and be
13 impleaded.

14 (13) Make and execute agreements of lease, contracts,
15 deeds, mortgages, notes, and other instruments necessary or
16 convenient in the exercise of its powers and functions under
17 this act.

18 (14) Employ or contract with health care providers,
19 medical personnel, management consultants, consulting
20 engineers, architects, surveyors, attorneys, accountants,
21 financial experts, and such other employees, entities, or
22 agents as may be necessary in its judgment to carry out the
23 mandates of the Correctional Medical Authority and fix their
24 compensation.

25 (15) Recommend to the Legislature such performance and
26 financial audits of the Office of Health Services in the
27 Department of Corrections as the authority considers
28 advisable.

29 Section 27. Section 945.6031, Florida Statutes, is
30 amended to read:

31 945.6031 Required reports and surveys.--

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1 (1) Not less than annually, the authority shall report
2 to the Governor and the Legislature the status of the
3 ~~Department of Corrections'~~health care delivery system
4 provided by the Department of Corrections and by vendors
5 operating private correctional facilities under contract
6 pursuant to chapters 957 and 944. The report must include,
7 but need not be limited to:

8 (a) Recommendations regarding cost containment
9 measures the Department of Corrections could implement; and

10 (b) Recommendations regarding performance and
11 financial audits of the Department of Corrections' Office of
12 Health Services.

13 (2) The authority shall conduct surveys of the
14 physical and mental health care system at each publicly
15 operated and privately operated correctional institution or
16 facility at least triennially and shall report the survey
17 findings for each institution to the Secretary of Corrections
18 or the Correctional Privatization Commission.

19 (3) Deficiencies found by the authority to be
20 life-threatening or otherwise serious shall be immediately
21 reported to the Secretary of Corrections or the Correctional
22 Privatization Commission. The Department of Corrections and
23 the Correctional Privatization Commission shall take immediate
24 action to correct life-threatening or otherwise serious
25 deficiencies identified by the authority and within 3 calendar
26 days file a written corrective action plan with the authority
27 indicating the actions that will be taken to address the
28 deficiencies. Within 60 calendar days following a survey, the
29 authority shall submit a report to the Secretary of
30 Corrections or the Correctional Privatization Commission
31 indicating deficiencies found at the institution or facility.

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1 (4) Within 30 calendar days after the receipt of a
 2 survey report from the authority, the Department of
 3 Corrections shall file a written corrective action plan with
 4 the authority, indicating the actions which will be taken to
 5 address deficiencies determined by the authority to exist at
 6 an institution or facility. Each plan shall set forth an
 7 estimate of the time and resources needed to correct
 8 identified deficiencies.

9 (5) The authority shall monitor the ~~Department of~~
 10 ~~Corrections'~~ implementation of corrective actions which have
 11 been taken at each institution to address deficiencies related
 12 to the ~~Department of Corrections'~~ provision of physical and
 13 mental health care services found to exist by the authority.

14 (6) ~~Failure of the Department of Corrections~~ to file a
 15 corrective action plan or to timely implement the provisions
 16 of a corrective action plan correcting identified deficiencies
 17 may result in the initiation of the dispute resolution
 18 procedures by the authority pursuant to s. 945.6035.

19 Section 28. Section 945.6035, Florida Statutes, is
 20 amended to read:

21 945.6035 Dispute resolution.--

22 (1) The authority and either the Assistant Secretary
 23 for Health Services or the Executive Director of the
 24 Correctional Privatization Commission, whoever is appropriate,
 25 shall attempt to expeditiously resolve any disputes arising
 26 between the authority and the department or the Correctional
 27 Privatization Commission regarding the physical and mental
 28 health care of inmates.

29 (2) If the authority and either the Assistant
 30 Secretary for Health Services or the Executive Director of the
 31 Correctional Privatization Commission are unable to resolve a

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1 dispute regarding inmate physical or mental health care, the
2 authority may submit a written notice to the Assistant
3 Secretary for Health Services or the Executive Director of the
4 Correctional Privatization Commission, setting forth each
5 issue in controversy and the position of the authority. The
6 Assistant Secretary for Health Services or the Executive
7 Director of the Correctional Privatization Commission shall
8 respond to the authority within 30 days after receipt of such
9 written notice. The authority shall place the assistant
10 secretary's or the executive director's response on the agenda
11 of the next regularly scheduled meeting of the authority. If
12 the dispute remains unresolved, the authority may submit a
13 written report to the secretary detailing the authority's
14 objections. The Assistant Secretary for Health Services or
15 the Executive Director of the Correctional Privatization
16 Commission shall submit a written report setting forth his or
17 her position to the secretary on the issue or issues raised by
18 the authority within 5 working days after receipt of the
19 submission by the authority.

20 (3) The secretary or the chair of the Correctional
21 Privatization Commission shall review any disputes between the
22 authority and the Assistant Secretary for Health Services or
23 the Executive Director of the Correctional Privatization
24 Commission, and shall provide written notice to the authority
25 of his or her decision regarding such disputes within 40 days
26 after the date when the authority provides written notice of
27 the dispute to the secretary or to the chair of the
28 Correctional Privatization Commission.

29 (4) If, at the end of the 40-day period, no resolution
30 has been reached, the authority is authorized to appeal to the
31 Administration Commission for a review and resolution of the

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1 dispute between the department or the Correctional
2 Privatization Commission and the authority.

3 (5) The authority, within 30 days after receiving
4 written notice of the action of the secretary or of the chair
5 of the Correctional Privatization Commission or, if no
6 response is received, within 30 days after the secretary's or
7 the chair's response is due pursuant to subsection (3), may
8 file an appeal by petition to the Administration Commission,
9 filed with the Secretary of the Administration Commission.
10 The petition shall set forth the issues in controversy between
11 the authority and either the Correctional Privatization
12 Commission or the department, in the form and manner
13 prescribed by the Administration Commission, and shall contain
14 the reasons for the appeal. The department or the
15 Correctional Privatization Commission has 5 days after
16 delivery of a copy of any such petition to file its reply with
17 the Secretary of the Administration Commission, and the
18 department or the Correctional Privatization Commission shall
19 also deliver a copy of its reply to the authority.

20 (6) The issues which may be raised by the authority on
21 appeal to the Administration Commission are:

22 (a) Adoption or implementation by the department or by
23 the Correctional Privatization Commission of a health care
24 standard which does not conform to the standard of care
25 generally accepted in the professional health community at
26 large.

27 (b) Failure of the department or the commission to
28 comply with an adopted health care standard.

29 (c) Failure to timely file a corrective action plan
30 regarding all deficiencies which are determined by the
31 authority to exist at an institution or facility, as required

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1 pursuant to s. 945.6031.

2 (d) Failure to implement a corrective action plan
3 filed pursuant to s. 945.6031.

4 (7) Within 30 days after receipt of a petition from
5 the authority, the Secretary of the Administration Commission,
6 or his or her designee, shall conduct an informal hearing to
7 consider the matters presented in the petition and the reply,
8 and after the informal hearing shall promptly submit a report
9 of the findings and recommendations to the Administration
10 Commission. Within 30 days after the informal hearing, the
11 Administration Commission shall approve either the position of
12 the authority or that of the Correctional Privatization
13 Commission or the department. If the position of the
14 authority is approved, the Administration Commission shall set
15 forth whatever remedial measures it deems appropriate and the
16 department shall implement such remedial measures. The
17 decision of the Administration Commission is final and binding
18 on the authority and on either the department or the
19 Correctional Privatization Commission and shall not be subject
20 to appeal pursuant to s. 120.68.

21 Section 29. Section 957.041, Florida Statutes, is
22 created to read:

23 957.041 Requirement for department to provide notice
24 of anticipated inmate profile.--

25 (1) Prior to the commission issuing a request for
26 proposals, the department shall notify the commission, in
27 writing, of the projected profile of the inmates anticipated
28 to be housed in the private correctional facility. The
29 anticipated inmate profile shall include, but not be limited
30 to, the:

31 (a) Education grade and literacy level;

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- 1 (b) Gender;
- 2 (c) Custody grades;
- 3 (d) Medical and psychological grades and
- 4 classification; and
- 5 (e) Age range.

6

7 The commission shall negotiate and enter into contracts for
 8 private correctional services based upon the anticipated
 9 inmate profile provided by the department.

10 Section 30. There is appropriated \$770,000 from the
 11 Inmate Welfare Trust Fund to the Department of Corrections for
 12 the fixed capital outlay needs of the AGAPE program in Dade
 13 County, including the purchase of new housing units and
 14 renovations to existing AGAPE facilities, for fiscal year
 15 1998-1999.

16 Section 31. If any provision of this act or the
 17 application thereof to any person or circumstance is held
 18 invalid, the invalidity shall not affect other provisions or
 19 applications of the act which can be given effect without the
 20 invalid provision or application, and to this end the
 21 provisions of this act are declared severable.

22 Section 32. Subsection (1) of section 921.141, Florida
 23 Statutes, is amended to read:

24 921.141 Sentence of death or life imprisonment for
 25 capital felonies; further proceedings to determine sentence.--

26 (1) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.--

27 (a) Upon conviction or adjudication of guilt of a
 28 defendant of a capital felony, the court shall conduct a
 29 separate sentencing proceeding to determine whether the
 30 defendant should be sentenced to death or life imprisonment as
 31 authorized by s. 775.082. The proceeding shall be conducted by

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1 the trial judge before the trial jury as soon as practicable.
2 If, through impossibility or inability, the trial jury is
3 unable to reconvene for a hearing on the issue of penalty,
4 having determined the guilt of the accused, the trial judge
5 may summon a special juror or jurors as provided in chapter
6 913 to determine the issue of the imposition of the penalty.
7 If the trial jury has been waived, or if the defendant pleaded
8 guilty, the sentencing proceeding shall be conducted before a
9 jury impaneled for that purpose, unless waived by the
10 defendant. In the proceeding, evidence may be presented as to
11 any matter that the court deems relevant to the nature of the
12 crime and the character of the defendant and shall include
13 matters relating to any of the aggravating or mitigating
14 circumstances enumerated in subsections (5) and (6). Any such
15 evidence which the court deems to have probative value may be
16 received, regardless of its admissibility under the
17 exclusionary rules of evidence, provided the defendant is
18 accorded a fair opportunity to rebut any hearsay statements.
19 However, this subsection shall not be construed to authorize
20 the introduction of any evidence secured in violation of the
21 Constitution of the United States or the Constitution of the
22 State of Florida. The state and the defendant or the
23 defendant's counsel shall be permitted to present argument for
24 or against sentence of death.

25 (b) If the court determines, by a preponderance of the
26 evidence, that the defendant suffers from mental retardation,
27 and has an IQ less than 55 the court shall sentence the
28 defendant to life imprisonment.

29 Section 33. Subsection (2) of section 921.142, Florida
30 Statutes, is amended to read:

31 921.142 Sentence of death or life imprisonment for

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1 capital drug trafficking felonies; further proceedings to
2 determine sentence.--

3 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.--

4 (a) Upon conviction or adjudication of guilt of a
5 defendant of a capital felony under s. 893.135, the court
6 shall conduct a separate sentencing proceeding to determine
7 whether the defendant should be sentenced to death or life
8 imprisonment as authorized by s. 775.082. The proceeding
9 shall be conducted by the trial judge before the trial jury as
10 soon as practicable. If, through impossibility or inability,
11 the trial jury is unable to reconvene for a hearing on the
12 issue of penalty, having determined the guilt of the accused,
13 the trial judge may summon a special juror or jurors as
14 provided in chapter 913 to determine the issue of the
15 imposition of the penalty. If the trial jury has been waived,
16 or if the defendant pleaded guilty, the sentencing proceeding
17 shall be conducted before a jury impaneled for that purpose,
18 unless waived by the defendant. In the proceeding, evidence
19 may be presented as to any matter that the court deems
20 relevant to the nature of the crime and the character of the
21 defendant and shall include matters relating to any of the
22 aggravating or mitigating circumstances enumerated in
23 subsections (6) and (7). Any such evidence which the court
24 deems to have probative value may be received, regardless of
25 its admissibility under the exclusionary rules of evidence,
26 provided the defendant is accorded a fair opportunity to rebut
27 any hearsay statements. However, this subsection shall not be
28 construed to authorize the introduction of any evidence
29 secured in violation of the Constitution of the United States
30 or the Constitution of the State of Florida. The state and the
31 defendant or the defendant's counsel shall be permitted to

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1 present argument for or against sentence of death.

2 (b) If the court determines, by a preponderance of the
3 evidence, that the defendant suffers from mental retardation,
4 and has an IQ less than 55 the court shall sentence the
5 defendant to life imprisonment.

6 Section 34. Paragraph (m) is added to subsection (1)
7 of section 924.07, Florida Statutes, to read:

8 924.07 Appeal by state.--

9 (1) The state may appeal from:

10 (m) An order pursuant to s. 921.141(1)(a) or s.
11 921.142(2)(a) declaring a defendant mentally retarded.

12 Section 35. For purposes of sections 921.141 and
13 921.142, Florida Statutes, the term "mental retardation" means
14 significantly subaverage general intellectual functioning
15 existing concurrently with deficits in adaptive behavior and
16 manifested during the period from conception to age 18. The
17 term "significantly subaverage general intellectual
18 functioning," for the purpose of this definition, means an
19 intelligence quotient of 55 or less on a standardized
20 intelligence test specified in the rules of the Department of
21 Children and Family Services. The term "adaptive behavior,"
22 for the purpose of this definition, means the effectiveness or
23 degree with which an individual meets the standards of
24 personal independence and social responsibility expected of
25 the individual's age, cultural group, and community.

26 Section 36. The Correctional Privatization Commission,
27 using the \$100,000 from the General Revenue Fund provided in
28 Specific Appropriation 589 of the Conference Report on House
29 Bill 4201 to the Correctional Privatization Commission for the
30 purpose of developing two invitations to bid, shall develop
31 the two invitations to bid as defined in chapter 287, Florida

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1 Statutes, pursuant to the following provisions:

2 (1) The first invitation to bid shall be for the
3 designing, acquiring, constructing, and operating of one
4 1,497-bed adult prison designed to house offenders at all
5 security levels. In no case may a contract be awarded pursuant
6 to the first invitation to bid for a project in which the
7 fixed capital outlay costs will exceed \$27,600,000.

8 Notwithstanding any provision of chapter 216, Florida
9 Statutes, to the contrary and with express reference to
10 section 216.351, Florida Statutes, the Executive Office of the
11 Governor shall transfer \$1,166,219 from the General Revenue
12 Fund and \$4,833,781 from the Grants and Donations Trust Fund
13 from Specific Appropriation 598 to Specific Appropriation 589
14 for the first-year fixed capital outlay costs of the project.

15 (2) The second invitation to bid must be designed for
16 the designing, acquiring, constructing, and operating of a
17 350-bed youthful offender facility. In no case may a contract
18 be awarded pursuant to the second invitation to bid for a
19 project in which the fixed capital outlay costs would exceed
20 \$8,950,000. Funding for the fixed capital outlay costs of any
21 contract awarded pursuant to the second invitation to bid
22 shall be subject to legislative appropriation during the 1999
23 Regular Session.

24
25 The Correctional Privatization Commission may award contracts
26 pursuant to the two invitations to bid to the lowest
27 cost-responsive bidders. The authority to issue two
28 invitations to bid and contracts contained in this section
29 shall be in lieu of the authority to issue two invitations to
30 bid and contracts provided in the proviso language following
31 Specific Appropriation 589 of the Conference Report on House

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1 Bill 4201. Further, to the extent that the proviso language
 2 following Specific Appropriation 589 of the Conference Report
 3 on House Bill 4201 is duplicative of the provisions of this
 4 section or in conflict thereof, those specific provisions of
 5 the proviso language are hereby repealed.

6 Section 37. This act shall take effect upon becoming a
 7 law.

8
 9
 10 ===== T I T L E A M E N D M E N T =====

11 And the title is amended as follows:

12 remove from the title of the amendment: the entire title

13
 14 and insert in lieu thereof:

15 A bill to be entitled
 16 An act relating to criminal justice; amending
 17 s. 951.23, F.S.; providing a criminal penalty
 18 for refusing to obey jail rules and
 19 regulations; requiring that a printed copy of
 20 rules be provided to prisoners; providing a
 21 definition; terminating specified trust funds
 22 and fund accounts within the state courts
 23 system and the Department of Corrections;
 24 providing for the transfer of current balances
 25 to general revenue, the paying of outstanding
 26 debts and obligations, and the removal of the
 27 terminated funds and accounts from the various
 28 state accounting systems; modifying provisions
 29 relating to specified trust funds and fund
 30 accounts within the state courts system and the
 31 Department of Corrections; amending s. 216.272,

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1 F.S., relating to Working Capital Trust Funds
2 used to fund data processing centers; removing
3 reference to the judicial branch; amending s.
4 945.215, F.S.; providing sources of funds and
5 purposes of the Inmate Welfare Trust Fund, the
6 Privately Owned Institutions Inmate Welfare
7 Trust Fund, and the Employee Benefit Trust Fund
8 within the department; providing for annual
9 appropriation of funds deposited in the Inmate
10 Welfare Trust Fund; requiring certain annual
11 reports; amending s. 944.803, F.S., relating to
12 faith-based programs for inmates; revising a
13 reference, to conform; amending s. 945.31,
14 F.S.; providing for deposit of the department's
15 administrative processing fee in the
16 department's Operating Trust Fund; amending s.
17 945.76, F.S.; revising provisions relating to
18 fees for certification and monitoring of
19 batterers' intervention programs; providing for
20 deposit of such fees in the department's
21 Operating Trust Fund; amending s. 944.10, F.S.;
22 providing for deposit of contractual service
23 and inmate labor fees in the Correctional Work
24 Program Trust Fund; amending s. 948.09, F.S.;
25 providing for deposit of the electronic
26 monitoring surcharge in the department's
27 Operating Trust Fund; amending s. 951.23, F.S.;
28 providing for deposit of fees collected
29 pursuant to local detention facility inspection
30 agreements in the department's Operating Trust
31 Fund; creating s. 386.213, F.S.; providing

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1 legislative intent; requiring the Department of
2 Corrections and private vendors operating state
3 correctional facilities to make
4 smoking-cessation assistance available to
5 inmates; requiring full implementation of the
6 act by a specified date; providing definitions;
7 prohibiting an inmate within a state
8 correctional facility from using tobacco
9 products in prohibited areas; prohibiting
10 employees or visitors from using tobacco
11 products in prohibited areas; providing
12 penalties; authorizing the department to adopt
13 rules; amending s. 386.203(1), F.S.; adding
14 state correctional facilities to the definition
15 of public place; amending s. 945.10, F.S.,
16 relating to confidential information and other
17 information available to inmates and offenders
18 in the correctional system or under
19 supervision; defining terms; prohibiting
20 certain disclosure or use of certain "personal
21 information about another person," as defined,
22 by an inmate or offender with intent to obtain
23 a benefit from, harass, harm, or defraud such
24 person; providing penalties; providing that an
25 inmate or offender convicted of such offense is
26 prohibited from subsequent participation in
27 correctional work programs or other programs;
28 providing that an inmate or offender convicted
29 of such offense is subject to forfeiture of
30 gain-time; providing for adoption of rules by
31 the department; amending s. 99.012, F.S.;

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1 requiring a subordinate officer, deputy
2 sheriff, or police officer seeking to qualify
3 for a public office to resign or take a leave
4 of absence, depending on certain circumstances
5 relating to the office sought; amending s.
6 922.11, F.S.; prohibiting videotape recorders
7 and other electronic or mechanical devices and
8 artistic paraphernalia in the execution
9 observation room; providing that certain
10 proviso language contained in the Conference
11 Report On House Bill 4201 may not be modified
12 through substantive legislation passed during
13 the 1998 regular session of the Legislature
14 unless certain conditions are met; providing
15 that certain proviso language contained in the
16 Conference Report On House Bill 4201 is
17 reenacted if repealed or amended by substantive
18 legislation passed during the 1998 regular
19 session of the Legislature; providing for
20 repeal of section on June 30, 1999; amending s.
21 957.03, F.S.; specifying circumstances under
22 which an act of the commission is binding;
23 eliminating the requirement for the commission
24 to include certain recidivism data in the
25 annual report to the Legislature; permitting
26 the commission to authorize contractors to use
27 inmate labor in facility construction and in
28 public work programs, under specified
29 circumstances; requiring the department to
30 assign available inmate work crews at the
31 request of the commission and the contractor,

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1 under specified circumstances; providing for
2 approval of security procedures; requiring the
3 reporting of outcome performance measures;
4 creating s. 957.031, F.S.; prohibiting
5 specified conduct by a commission member,
6 employee, or consultant who reviews, monitors,
7 or approves private correctional facility
8 contracts, or otherwise advises the commission
9 with respect to private correctional
10 facilities; providing for construction;
11 amending s. 957.06, F.S.; removing provisions
12 relating to the cooperative transfer agreement;
13 providing that certain contracts do not
14 authorize development and implementation of
15 work programs; providing exceptions; creating
16 s. 957.061, F.S.; providing for cooperative
17 transfer agreements; amending s. 957.08, F.S.;
18 restricting the types of inmates to be assigned
19 and transferred to private correctional
20 facilities; amending s. 957.125, F.S.;
21 providing for applicability of certain program
22 requirements to contracted youthful offender
23 facilities; directing the Florida Corrections
24 Commission to conduct an in-depth analysis on
25 technology and private services contracts,
26 develop certain proposals, and report its
27 findings to the Legislature; requiring the
28 commission to contract with an academic
29 researcher for fiscal year 1998-1999 to produce
30 a comparative recidivism rate study; providing
31 for development by consensus and approval of a

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1 methodology and sampling strategy by the
2 researcher, the director of the Division of
3 Economic and Demographic Research of the Joint
4 Legislative Management Committee, or successor
5 entity, and a Department of Corrections staff
6 person; prescribing certain uses of the
7 methodology and sampling strategy; providing
8 for a report to the Legislature; repealing s.
9 957.125(1), (3) and (4), F.S., relating to the
10 original authorization to enter into contracts
11 and transfer arrangements for youthful offender
12 facilities; removing obsolete provisions;
13 repealing s. 944.711, F.S., relating to
14 requests for proposals and construction of
15 certain departmental facilities; repealing s.
16 957.04(8), F.S., relating to an expenditure to
17 defray impact costs; removing obsolete
18 provisions; amending s. 945.603, F.S.;
19 authorizing the Correctional Medical Authority
20 to review and advise the Correctional
21 Privatization Commission on inmate health care;
22 revising powers and duties of the authority;
23 conforming terminology; amending s. 945.6031,
24 F.S.; revising responsibilities of the
25 authority and guidelines for required reports
26 and surveys; requiring the authority to conduct
27 surveys of the physical and mental health care
28 system at private correctional facilities;
29 requiring certain reports; amending s.
30 945.6035, F.S.; requiring the authority and
31 either the Assistant Secretary of Health

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1 Services of the department or the Executive
2 Director of the Correctional Privatization
3 Commission to attempt to expeditiously resolve
4 any disputes between the authority and the
5 department or the commission regarding the
6 physical and mental health care of inmates in
7 private prisons; providing for appeal, review,
8 and resolution; requiring the decision of the
9 Administration Commission to be final and
10 binding; creating s. 957.041, F.S.; requiring
11 the department to notify the commission of the
12 profile of the inmates anticipated to be housed
13 in a private correctional facility; requiring
14 the commission to negotiate and enter into
15 contracts for private correctional services
16 based upon the inmate profile; amending ss.
17 921.141 and 921.142, F.S.; prescribing the
18 penalty to be imposed if the defendant is
19 determined to be mentally retarded; amending s.
20 924.07, F.S.; providing that the state may
21 appeal a determination that a defendant is
22 mentally retarded; providing a definition of
23 mental retardation; providing severability;
24 providing an appropriation; directing the
25 Correctional Privatization Commission to issue
26 certain invitations to bid for designing,
27 acquiring, constructing, and operating an adult
28 prison or youthful offender facility of
29 specified capacity; providing duties of the
30 Correctional Privatization Commission,
31 guidelines, and cost limitations with respect

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1 to the invitations to bid for the projects;
2 providing for funding; requiring transfer of
3 certain appropriation moneys by the Executive
4 Office of the Governor for first year fixed
5 capital outlay costs of the project to which
6 the first invitation to bid is applicable;
7 providing that funding for such costs of a
8 contract awarded pursuant to the second
9 invitation to bid is subject to legislative
10 appropriation during the 1999 Regular Session;
11 providing guidelines for award of the contracts
12 by the Correctional Privatization Commission;
13 providing that the authority to issue the
14 invitations to bid shall be in lieu of the
15 authority and contracts provided in specified
16 proviso language following Specific
17 Appropriation 589 of the Conference Report on
18 House Bill 4201; providing for repeal of the
19 proviso language to the extent of conflict with
20 specified provisions of act; providing an
21 effective date.

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