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Bill No. CS/HB 3527

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

11 Representative(s) Trovillion, Crist, Logan, Roberts-Burke,  
12 Warner, and Byrd offered the following:

14 **Amendment to Senate Amendment (733788) (with title**  
15 **amendment)**

16 remove: the entire amendment

18 and insert in lieu thereof:

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

21 951.23 County and municipal detention facilities;  
22 definitions; administration; standards and requirements.--

23 (11)(a) Any prisoner in a county or municipal  
24 detention facility who knowingly and willfully refuses on  
25 three or more occasions to obey or comply with any rule  
26 governing the conduct of prisoners commits a misdemeanor of  
27 the second degree, punishable as provided in s. 775.082 or s.  
28 775.083. Such punishment must be in addition to any sentence  
29 he or she may be serving. A prisoner may be charged with,  
30 convicted of, and sentenced for a violation of this subsection  
31 in addition to any other criminal offense committed while

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1 detained in a county or municipal detention facility.

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

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

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

13 (a) Within the state courts system:

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

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

17 (b) Within the Department of Corrections:

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

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

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

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

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1 liabilities.

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

4 216.272 Working Capital Trust Funds.--

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

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

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

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

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

30 (a) The Inmate Welfare Trust Fund constitutes a trust  
31 held by the department for the benefit and welfare of

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1 offenders and inmates under the jurisdiction of the Department  
2 of Corrections. Funds shall be credited to the trust fund as  
3 follows:

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

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

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

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

31 b. Persons who accept collect calls from inmates are

1 charged the contracted rate; and

2 c. The department receives the contracted telephone  
3 commissions.

4 4. Any funds that may be assigned by inmates or  
5 donated to the department by the general public or an inmate  
6 service organization; however, the department shall not accept  
7 any donation from, or on behalf of, any individual inmate.

8 5. Repayment of the one-time sum of \$500,000  
9 appropriated in fiscal year 1996-1997 from the Inmate Welfare  
10 Trust Fund for correctional work programs pursuant to s.  
11 946.008.

12 6. All proceeds from:

13 a. The confiscation and liquidation of any contraband  
14 found upon, or in the possession of, any inmate:

15 b. Disciplinary fines imposed against inmates;

16 c. Forfeitures of inmate earnings; and

17 d. Unexpended balances in individual inmate trust fund  
18 accounts of less than \$1.

19 7. All interest earnings and other proceeds derived  
20 from investments of funds deposited in the trust fund. In the  
21 manner authorized by law for fiduciaries, the secretary of the  
22 department, or the secretary's designee, may invest any funds  
23 in the trust fund when it is determined that such funds are  
24 not needed for immediate use.

25 (b) ~~Funds Beginning with the legislative appropriation~~  
26 ~~for fiscal year 1995-1996 and thereafter, the money in the~~  
27 Inmate Welfare Trust Fund must be used exclusively for the  
28 following purposes at correctional facilities operated  
29 directly by the department:

30 1. To operate inmate canteens and vending machines,  
31 including purchasing ~~purchase~~ items for resale at ~~the~~ inmate

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1 canteens and ~~or~~ vending machines, maintained at the  
2 ~~correctional facilities;~~

3 ~~2. employing~~ To employ personnel and inmates to  
4 manage, supervise, and operate inmate ~~the~~ canteens and vending  
5 machines, at the correctional facilities;

6 ~~3. and covering other~~ For operating and fixed capital  
7 outlay expenses associated with operating ~~the operation of~~  
8 inmate canteens and vending machines;

9 ~~2.4.~~ To employ personnel to manage and supervise the  
10 proceeds from telephone commissions;

11 3. To develop, implement, and maintain the medical  
12 copayment accounting system;

13 ~~4.5. To employ personnel for correctional education~~ To  
14 provide literacy programs, vocational training programs, and  
15 educational ~~academic~~ programs that comply with standards of  
16 the Department of Education, including employing personnel and  
17 covering other;

18 ~~6. For~~ operating and fixed capital outlay expenses  
19 associated with providing such programs ~~the delivery to~~  
20 ~~inmates of literacy programs, vocational training, and~~  
21 ~~academic programs that comply with standards of the Department~~  
22 ~~of Education;~~

23 5.7. To operate inmate chapels, faith-based programs,  
24 visiting pavilions, libraries, and law libraries, including  
25 employing personnel and covering other ~~For~~ operating and fixed  
26 capital outlay expenses associated with operating the  
27 ~~operation of inmate chapels, faith-based programs, visiting~~  
28 pavilions, libraries, and law libraries ~~visiting pavilions;~~

29 ~~8. To employ personnel to operate the libraries,~~  
30 ~~chapels, and visiting pavilions;~~

31 6.9. To provide for expenses associated with various

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1 inmate clubs;

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

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

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

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

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

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~~1 persons who have accepted collect calls from inmates are being  
2 charged the contracted rate, and that contracted telephone  
3 companies are accurately and completely recording and  
4 reporting all inmate telephone calls made.~~

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

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

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

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



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1           ~~(e)(g)~~ Items for resale at ~~the~~ inmate canteens and ~~or~~  
 2 vending machines maintained at the correctional facilities  
 3 shall be priced comparatively with like items for retail sale  
 4 at fair market prices.

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

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

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

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

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

31           2. Funds in the Privately Operated Institutions Inmate

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1 Welfare Trust Fund shall be expended only pursuant to  
 2 legislative appropriation.

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

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

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

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

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

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

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

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1 and must ~~shall~~ provide the maximum benefit to all interested  
2 employees, regardless of gender of both sexes, including  
3 ~~teachers, clerical staff, medical and psychological services~~  
4 ~~personnel, and officers and administrators.~~

5 Section 5. Paragraph (d) of subsection (2) of section  
6 944.803, Florida Statutes, is amended to read:

7 944.803 Faith-based programs for inmates.--

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

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

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

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

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

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

31 (1) Pursuant to s. 741.32, the Department of

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1 Corrections is authorized to assess and collect:  
2       (a) An annual certification fee ~~fees~~ not to exceed  
3 \$300 for the certification and monitoring of batterers'  
4 intervention programs ~~certified by the Department of~~  
5 ~~Corrections' Office of Certification and Monitoring of~~  
6 ~~Batterers' Intervention Programs and.~~  
7       (b) An annual certification fee not to exceed \$200 for  
8 the certification and monitoring of assessment personnel  
9 providing direct services to persons who:  
10       1.(a) Are ordered by the court to participate in a  
11 domestic violence prevention program;  
12       2.(b) Are adjudged to have committed an act of  
13 domestic violence as defined in s. 741.28;  
14       3.(c) Have an injunction entered for protection  
15 against domestic violence; or  
16       4.(d) Agree to attend a program as part of a diversion  
17 or pretrial intervention agreement by the offender with the  
18 state attorney.  
19       (2) All persons required by the court to attend  
20 domestic violence programs certified by the Department of  
21 Corrections' Office of Certification and Monitoring of  
22 Batterers' Intervention Programs shall pay an additional \$30  
23 fee for each 29-week program to the Department of Corrections.  
24       (3) The fees assessed and collected under this section  
25 ~~fee~~ shall be deposited in the department's Operating Grants  
26 ~~and Donations Trust Fund to be used by the department~~ to fund  
27 the cost of certifying and monitoring batterers' intervention  
28 programs.  
29       Section 8. Subsection (7) of section 944.10, Florida  
30 Statutes, is amended to read:  
31       944.10 Department of Corrections to provide buildings;

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1 sale and purchase of land; contracts to provide services and  
2 inmate labor.--

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

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

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

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

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

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

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

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

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

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

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

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

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1 944.02, or a correctional institution or facility operated  
2 under s. 944.105 or chapter 957.

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

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

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

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

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

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

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



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1 the future under s. 944.28.

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

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

12 386.203 Definitions.--As used in this part:

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

15 (a) Government buildings;

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

19 (c) Elevators;

20 (d) Hospitals;

21 (e) Nursing homes;

22 (f) Educational facilities;

23 (g) Public school buses;

24 (h) Libraries;

25 (i) Courtrooms;

26 (j) Jury waiting and deliberation rooms;

27 (k) Museums;

28 (l) Theaters;

29 (m) Auditoriums;

30 (n) Arenas;

31 (o) Recreational facilities;

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- 1 (p) Restaurants which seat more than 50 persons;
- 2 (q) Retail stores, except a retail store the primary
- 3 business of which is the sale of tobacco or tobacco related
- 4 products;
- 5 (r) Grocery stores;
- 6 (s) Places of employment;
- 7 (t) Health care facilities;
- 8 (u) Day care centers; ~~and~~
- 9 (v) Common areas of retirement homes and
- 10 condominiums; ~~and~~
- 11 (w) State correctional facilities.

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

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

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

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

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

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

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

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

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

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1 identity.

2 (g) The identity of an executioner.

3 (h) Records that are otherwise confidential or exempt  
4 from public disclosure by law.

5 (2) The records and information specified in  
6 paragraphs (1)(b)-(h) may be released as follows unless  
7 expressly prohibited by federal law:

8 (a) Information specified in paragraphs (1)(b), (d),  
9 and (f) to the Office of the Governor, the Legislature, the  
10 Parole Commission, the Department of Health and Rehabilitative  
11 Services, a private correctional facility or program that  
12 operates under a contract, the Department of Legal Affairs, a  
13 state attorney, the court, or a law enforcement agency. A  
14 request for records or information pursuant to this paragraph  
15 need not be in writing.

16 (b) Information specified in paragraphs (1)(c), (e),  
17 and (h) to the Office of the Governor, the Legislature, the  
18 Parole Commission, the Department of Health and Rehabilitative  
19 Services, a private correctional facility or program that  
20 operates under contract, the Department of Legal Affairs, a  
21 state attorney, the court, or a law enforcement agency. A  
22 request for records or information pursuant to this paragraph  
23 must be in writing and a statement provided demonstrating a  
24 need for the records or information.

25 (c) Information specified in paragraph (1)(b) to an  
26 attorney representing an inmate under sentence of death,  
27 except those portions of the records containing a victim's  
28 statement or address, or the statement or address of a  
29 relative of the victim. A request for records of information  
30 pursuant to this paragraph must be in writing and a statement  
31 provided demonstrating a need for the records or information.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 benefit from, harass, harm, or defraud such person. Any inmate  
2 or offender who violates this section commits a felony of the  
3 third degree, punishable as provided in s. 775.082, s.  
4 775.083, or s. 775.084.

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

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

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

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

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1 person and who has qualified as a candidate for reelection to  
2 that office.

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

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

26 Section 16. Paragraph (f) of subsection (3) and  
27 paragraph (c) of subsection (4) of section 957.03, Florida  
28 Statutes, are amended, and paragraphs (d), (e), and (f) are  
29 added to subsection (4) of said section, to read:

30 957.03 Correctional Privatization Commission.--

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



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1           (f) The commission shall meet upon the call of the  
2 chair or a majority of the members of the commission. A  
3 majority of the members of the commission constitutes a  
4 quorum. An action of the commission is not binding unless the  
5 action is taken pursuant to an affirmative vote of a majority  
6 of the members present, but not fewer than three members of  
7 the commission must be present. The vote must be recorded in  
8 the minutes of the meeting.

9           (4) DUTIES.--

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

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

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

30          (f) In the renegotiation or origination of contracts  
31 on or after the effective date of this act, the commission

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1 shall require each contractor to develop and annually report  
2 to the Legislature outcome performance measures similar to  
3 those included in the General Appropriations Act for the  
4 department pursuant to s. 216.0166.

5 Section 17. Section 957.031, Florida Statutes, is  
6 created to read:

7 957.031 Prohibited conduct by commission member,  
8 employee, consultant, or adviser.--

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

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

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

18 1. Has a business relationship of any kind with the  
19 commission;

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

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

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

29 Section 18. Section 957.06, Florida Statutes, is  
30 amended to read:

31 957.06 Powers and duties not delegable to

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1 contractor.--A contract entered into under this chapter does  
2 not authorize, allow, or imply a delegation of authority to  
3 the contractor to:

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

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

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

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

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

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

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

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

14           Section 19. Section 957.061, Florida Statutes, is  
15 created to read:

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

24           Section 20. Section 957.08, Florida Statutes, is  
25 amended to read:

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

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1 commission. The types of inmates prisoners transferred by the  
2 department shall conform to the cooperative transfer agreement  
3 developed pursuant to s. 957.061 and represent a cross section  
4 of the general inmate population, based on the grade of  
5 custody or the offense of conviction, the physical and mental  
6 health grade, and the level of education,at the most  
7 comparable facility operated by the department.

8 Section 21. Subsection (2) of section 957.125, Florida  
9 Statutes, is amended to read:

10 957.125 Correctional facilities for youthful  
11 offenders.--

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

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

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

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

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

10 Section 24. Subsections (1), (3), and (4) of section  
11 957.125, section 944.711, and subsection (8) of section  
12 957.04, Florida Statutes, are repealed.

13 Section 25. Section 945.603, Florida Statutes, is  
14 amended to read:

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

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

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

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

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

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

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

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

30           (8) Review and advise the Secretary of Corrections on  
31 the adequacy of preservice, inservice, and continuing medical



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1 education programs for all health care personnel and, if  
2 necessary, recommend changes to such programs within the  
3 Department of Corrections.

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

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

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

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

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

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

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

31 Section 26. Section 945.6031, Florida Statutes, is

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1 amended to read:

2 945.6031 Required reports and surveys.--

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

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

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

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

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

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1 Corrections or the Correctional Privatization Commission  
2 indicating deficiencies found at the institution or facility.

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

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

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

21 Section 27. Section 945.6035, Florida Statutes, is  
22 amended to read:

23 945.6035 Dispute resolution.--

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

31 (2) If the authority and either the Assistant

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

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

31 (4) If, at the end of the 40-day period, no resolution

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1 has been reached, the authority is authorized to appeal to the  
2 Administration Commission for a review and resolution of the  
3 dispute between the department or the Correctional  
4 Privatization Commission and the authority.

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

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

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

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

31 (c) Failure to timely file a corrective action plan

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1 regarding all deficiencies which are determined by the  
2 authority to exist at an institution or facility, as required  
3 pursuant to s. 945.6031.

4 (d) Failure to implement a corrective action plan  
5 filed pursuant to s. 945.6031.

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

23 Section 28. Section 957.041, Florida Statutes, is  
24 created to read:

25 957.041 Requirement for department to provide notice  
26 of anticipated inmate profile.--

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

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1 to, the:

2 (a) Education grade and literacy level;

3 (b) Gender;

4 (c) Custody grades;

5 (d) Medical and psychological grades and  
6 classification; and

7 (e) Age range.

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

12 Section 29. There is appropriated \$770,000 from the  
13 Inmate Welfare Trust Fund to the Department of Corrections for  
14 the fixed capital outlay needs of the AGAPE program in Dade  
15 County, including the purchase of new housing units and  
16 renovations to existing AGAPE facilities, for fiscal year  
17 1998-1999.

18 Section 30. There is appropriated \$550,000 from the  
19 Inmate Welfare Trust Fund to the Department of Corrections for  
20 the New Horizon Community Mental Health Center's Family  
21 Intervention, Preservation, and Support Program for fiscal  
22 year 1998-1999.

23 Section 31. Subsection (1) of section 921.141, Florida  
24 Statutes, is amended to read:

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

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

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

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

26 (b) If the court determines by clear and convincing  
27 evidence, that the defendant suffers from mental retardation,  
28 the court shall sentence the defendant to life imprisonment.  
29 The defendant shall bear the burden of persuasion to  
30 demonstrate that he or she is mentally retarded. The failure  
31 of the defendant to raise the claim that he or she is mentally



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1 retarded at the sentencing phase shall waive any such claim.  
2 No postconviction claim may be based on the assertion that a  
3 defendant could have or should have been sentenced to life  
4 imprisonment based on the defendant's alleged mental  
5 retardation. This claim may only be raised in capital criminal  
6 prosecutions occurring after the effective date of this act  
7 and may not be raised in any postconviction proceeding. This  
8 claim may not be raised in the guilt phase of a capital  
9 criminal proceeding.

10 Section 32. Subsection (2) of section 921.142, Florida  
11 Statutes, is amended to read:

12 921.142 Sentence of death or life imprisonment for  
13 capital drug trafficking felonies; further proceedings to  
14 determine sentence.--

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

16 (a) Upon conviction or adjudication of guilt of a  
17 defendant of a capital felony under s. 893.135, the court  
18 shall conduct a separate sentencing proceeding to determine  
19 whether the defendant should be sentenced to death or life  
20 imprisonment as authorized by s. 775.082. The proceeding  
21 shall be conducted by the trial judge before the trial jury as  
22 soon as practicable. If, through impossibility or inability,  
23 the trial jury is unable to reconvene for a hearing on the  
24 issue of penalty, having determined the guilt of the accused,  
25 the trial judge may summon a special juror or jurors as  
26 provided in chapter 913 to determine the issue of the  
27 imposition of the penalty. If the trial jury has been waived,  
28 or if the defendant pleaded guilty, the sentencing proceeding  
29 shall be conducted before a jury impaneled for that purpose,  
30 unless waived by the defendant. In the proceeding, evidence  
31 may be presented as to any matter that the court deems

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1 relevant to the nature of the crime and the character of the  
2 defendant and shall include matters relating to any of the  
3 aggravating or mitigating circumstances enumerated in  
4 subsections (6) and (7). Any such evidence which the court  
5 deems to have probative value may be received, regardless of  
6 its admissibility under the exclusionary rules of evidence,  
7 provided the defendant is accorded a fair opportunity to rebut  
8 any hearsay statements. However, this subsection shall not be  
9 construed to authorize the introduction of any evidence  
10 secured in violation of the Constitution of the United States  
11 or the Constitution of the State of Florida. The state and the  
12 defendant or the defendant's counsel shall be permitted to  
13 present argument for or against sentence of death.

14 (b) If the court determines by clear and convincing  
15 evidence, that the defendant suffers from mental retardation,  
16 the court shall sentence the defendant to life imprisonment.  
17 The defendant shall bear the burden of persuasion to  
18 demonstrate that he or she is mentally retarded. The failure  
19 of the defendant to raise the claim that he or she is mentally  
20 retarded at the sentencing phase shall waive any such claim.  
21 No postconviction claim may be based on the assertion that a  
22 defendant could have or should have been sentenced to life  
23 imprisonment based on the defendant's alleged mental  
24 retardation. This claim may only be raised in capital criminal  
25 prosecutions occurring after the effective date of this act  
26 and may not be raised in any postconviction proceeding. This  
27 claim may not be raised in the guilt phase of a capital  
28 criminal proceeding.

29 Section 33. Paragraph (m) is added to subsection (1)  
30 of section 924.07, Florida Statutes, to read:

31 924.07 Appeal by state.--

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1           (1) The state may appeal from:  
 2           (m) An order pursuant to s. 921.141(1)(a) or s.  
 3 921.142(2)(a) declaring a defendant mentally retarded.

4           Section 34. For purposes of sections 921.141 and  
 5 921.142, Florida Statutes, the term "mental retardation" means  
 6 significantly subaverage general intellectual functioning  
 7 existing concurrently with deficits in adaptive behavior and  
 8 manifested during the period from conception to age 18. The  
 9 term "adaptive behavior," for the purpose of this definition,  
 10 means the effectiveness or degree with which an individual  
 11 meets the standards of personal independence and social  
 12 responsibility expected of the individual's age, cultural  
 13 group, and community.

14           Section 35. The Correctional Privatization Commission,  
 15 using the \$100,000 from the General Revenue Fund provided in  
 16 Specific Appropriation 589 of the Conference Report on House  
 17 Bill 4201 to the Correctional Privatization Commission for the  
 18 purpose of developing two invitations to bid, shall develop  
 19 the two invitations to bid as defined in chapter 287, Florida  
 20 Statutes, pursuant to the following provisions:

21           (1) The first invitation to bid shall be for the  
 22 designing, acquiring, constructing, and operating of one  
 23 1,497-bed adult prison designed to house offenders at all  
 24 security levels. In no case may a contract be awarded pursuant  
 25 to the first invitation to bid for a project in which the  
 26 fixed capital outlay costs will exceed \$27,600,000.  
 27 Notwithstanding any provision of chapter 216, Florida  
 28 Statutes, to the contrary and with express reference to  
 29 section 216.351, Florida Statutes, the Executive Office of the  
 30 Governor shall transfer \$1,166,219 from the General Revenue  
 31 Fund and \$4,833,781 from the Grants and Donations Trust Fund

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1 from Specific Appropriation 598 to Specific Appropriation 589  
 2 for the first-year fixed capital outlay costs of the project.

3 (2) The second invitation to bid must be designed for  
 4 the designing, acquiring, constructing, and operating of a  
 5 350-bed youthful offender facility. In no case may a contract  
 6 be awarded pursuant to the second invitation to bid for a  
 7 project in which the fixed capital outlay costs would exceed  
 8 \$8,950,000. Funding for the fixed capital outlay costs of any  
 9 contract awarded pursuant to the second invitation to bid  
 10 shall be subject to legislative appropriation during the 1999  
 11 Regular Session.

12  
 13 The Correctional Privatization Commission may award contracts  
 14 pursuant to the two invitations to bid to the lowest  
 15 cost-responsive bidders. The authority to issue two  
 16 invitations to bid and contracts contained in this section  
 17 shall be in lieu of the authority to issue two invitations to  
 18 bid and contracts provided in the proviso language following  
 19 Specific Appropriation 589 of the Conference Report on House  
 20 Bill 4201. Further, to the extent that the proviso language  
 21 following Specific Appropriation 589 of the Conference Report  
 22 on House Bill 4201 is duplicative of the provisions of this  
 23 section or in conflict thereof, those specific provisions of  
 24 the proviso language are hereby repealed.

25 Section 36. Effective October 1, 1998, section  
 26 944.485, Florida Statutes, is amended to read:

27 944.485 ~~Subsistence fees with respect to certain~~  
 28 ~~prisoners; time of adoption; requirements.~~ Financial  
 29 responsibility for costs of incarceration, including medical  
 30 or dental expenses.--The Legislature recognizes ~~in recognition~~  
 31 ~~of the fact~~ that many prisoners in the correctional system

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1 have sources of income and assets outside of the correctional  
2 system, which may include bank accounts, inheritances, real  
3 estate, ~~social security payments, veteran's payments,~~health  
4 insurance policies, and other types of financial resources.7  
5 The Legislature further recognizes and in recognition of the  
6 fact that the daily subsistence cost of incarcerating  
7 prisoners in the correctional system is a great burden on the  
8 taxpayers of the state.7, ~~each prisoner in the state~~  
9 ~~correctional system, except those who have entered into an~~  
10 ~~agreement under s. 947.135 prior to October 1, 1978:~~

11 ~~(a) Shall disclose all revenue or assets as a~~  
12 ~~condition of parole or other release eligibility.~~

13 ~~(b) Shall pay from such income and assets, except~~  
14 ~~where such income is exempt by state or federal law, all or a~~  
15 ~~fair portion of the prisoner's daily subsistence costs, based~~  
16 ~~upon the inmate's ability to pay, the liability or potential~~  
17 ~~liability of the inmate to the victim or the guardian or the~~  
18 ~~estate of the victim, and the needs of his or her dependents.~~

19 ~~(2)~~

20 ~~(a) Any prisoner who is directed to pay all or a fair~~  
21 ~~portion of daily subsistence costs is entitled to reasonable~~  
22 ~~advance notice of the assessment and shall be afforded an~~  
23 ~~opportunity to present reasons for opposition to the~~  
24 ~~assessment.~~

25 ~~(b) An order directing payment of all or a fair~~  
26 ~~portion of a prisoner's daily subsistence costs may survive~~  
27 ~~against the estate of the prisoner.~~

28 (1) A state correctional facility, or the Department  
29 of Corrections acting in its behalf, which incurs costs of  
30 incarceration for a prisoner which have not been reimbursed as  
31 otherwise provided for by law, including costs of providing

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1 medical or dental care, treatment, hospitalization, or  
2 transportation, may seek reimbursement for the costs of  
3 incarceration, including such expenses incurred, in the  
4 following order:

5 (a) From an insurance company, health care  
6 corporation, or other source if the prisoner is covered by an  
7 insurance policy or subscribes to a health care corporation.

8 (b) From the prisoner's cash account on deposit with  
9 the state correctional facility. If the prisoner's cash  
10 account does not contain sufficient funds to cover the costs  
11 of incarceration, including cost of providing medical or  
12 dental care, treatment, hospitalization, or transportation,  
13 the state correctional facility or the department may place a  
14 lien against the amounts in the prisoner's cash account in  
15 excess of \$50, or other personal property, to provide payment  
16 in the event sufficient funds become available at a later  
17 time. Any time the prisoner's cash account exceeds \$50 with  
18 subsequent deposits, the amount in excess may be withheld  
19 until the total amount is paid. Any existing lien may be  
20 carried over to future incarceration of the same prisoner,  
21 except as otherwise provided by law.

22 (c) From other sources available, except where income  
23 from such sources is exempt under federal or state laws.

24 (2) A prisoner shall cooperate with the state  
25 correctional facility and the department in seeking  
26 reimbursement under paragraphs(1)(a),(b) and (c) for expenses  
27 incurred by the state correctional facility for the prisoner.  
28 A prisoner who willfully refuses to cooperate with the  
29 reimbursement efforts of the state correctional facility may  
30 have a lien placed against the prisoner's cash account or  
31 other personal property and may not receive incentive

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1 gain-time as authorized pursuant to s. 944.275 (4).

2 (3) Any claim by a state correctional facility or the  
3 Department of Corrections made under this section shall be  
4 subordinate to any judgment for restitution or any judgment  
5 for child support against the prisoner.

6 (4) For the purposes of this section, the Department of  
7 Corrections shall be responsible for seeking reimbursement  
8 under provisions of this section for prisoners housed in  
9 private correctional facilities under contract with the  
10 Correctional Privatization Commission pursuant to Chapter 957.

11 Section 37. (1) For fiscal year 1998-99 and within  
12 existing resources, there is hereby created a task force  
13 within the Department of Corrections to investigate and  
14 analyze various strategies for the state to seek reimbursement  
15 for inmate health care costs incurred during incarceration.  
16 The purpose of the task force is to meet and consult with the  
17 Department of Insurance, the Correctional Medical Authority  
18 and the Agency for Health Care Administration to identify the  
19 extent to which inmates incarcerated in the state prison  
20 system have available assets or who have health care coverage  
21 from commercial insurance policies. The task force shall  
22 submit its collaborative findings and recommendations to the  
23 President of the Senate and the Speaker of the House of  
24 Representatives by January 1, 1999.

25 (2) This section shall take effect October 1, 1998.

26 Section 38. Subsection (2) of section 947.1405,  
27 Florida Statutes, is amended to read:

28 947.1405 Conditional release program.--

29 (1) This section and s. 947.141 may be cited as the  
30 "Conditional Release Program Act."

31 (2) Any inmate who:

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1 (a) Is convicted of a crime committed on or after  
2 October 1, 1988, and before January 1, 1994, and any inmate  
3 who is convicted of a crime committed on or after January 1,  
4 1994, which crime is or was contained in category 1, category  
5 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,  
6 Florida Rules of Criminal Procedure (1993), and who has served  
7 at least one prior felony commitment at a state or federal  
8 correctional institution;

9 (b) Is sentenced as a habitual or violent habitual  
10 offender or a violent career criminal pursuant to s. 775.084;  
11 or

12 (c) Is found to be a sexual predator under s. 775.21  
13 or former s. 775.23,

14  
15 shall, upon reaching the tentative release date or provisional  
16 release date, whichever is earlier, as established by the  
17 Department of Corrections, be released under supervision  
18 subject to specified terms and conditions, including payment  
19 of the cost of supervision pursuant to s. 948.09. Such  
20 supervision shall be applicable to all sentences within the  
21 overall term of sentences if an inmate's overall term of  
22 sentences includes one or more sentences that are eligible for  
23 conditional release supervision as provided herein. Effective  
24 July 1, 1994, and applicable for offenses committed on or  
25 after that date, the commission may require, as a condition of  
26 conditional release, that the releasee make payment of the  
27 debt due and owing to a county or municipal detention facility  
28 under s. 951.032 for medical care, treatment, hospitalization,  
29 or transportation received by the releasee while in that  
30 detention facility. The commission, in determining whether to  
31 order such repayment and the amount of such repayment, shall



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1 consider the amount of the debt, whether there was any fault  
2 of the institution for the medical expenses incurred, the  
3 financial resources of the releasee, the present and potential  
4 future financial needs and earning ability of the releasee,  
5 and dependents, and other appropriate factors. If an inmate  
6 has received a term of probation or community control  
7 supervision to be served after release from incarceration, the  
8 period of probation or community control must be substituted  
9 for the conditional release supervision. A panel of no fewer  
10 than two commissioners shall establish the terms and  
11 conditions of any such release. If the offense was a  
12 controlled substance violation, the conditions shall include a  
13 requirement that the offender submit to random substance abuse  
14 testing intermittently throughout the term of conditional  
15 release supervision, upon the direction of the correctional  
16 probation officer as defined in s. 943.10(3). Regardless of  
17 the offense, the offender must consent to a search of his or  
18 her person, property, or residence as requested by the  
19 correctional probation officer.The commission shall also  
20 determine whether the terms and conditions of such release  
21 have been violated and whether such violation warrants  
22 revocation of the conditional release.

23 Section 39. For the purpose of incorporating the  
24 amendment to s. 947.1405, Florida Statutes, in a reference  
25 thereto, paragraph (i) of subsection (4) of section 775.084,  
26 Florida Statutes, is reenacted to read:

27 775.084 Violent career criminals; habitual felony  
28 offenders and habitual violent felony offenders; definitions;  
29 procedure; enhanced penalties.--

30 (4)

31 (i) The provisions of s. 947.1405 shall apply to

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1 persons sentenced as habitual felony offenders and persons  
2 sentenced as habitual violent felony offenders.

3 Section 40. Section 947.18, Florida Statutes, is  
4 amended to read:

5 947.18 Conditions of parole.--No person shall be  
6 placed on parole merely as a reward for good conduct or  
7 efficient performance of duties assigned in prison. No person  
8 shall be placed on parole until and unless the commission  
9 finds that there is reasonable probability that, if the person  
10 is placed on parole, he or she will live and conduct himself  
11 or herself as a respectable and law-abiding person and that  
12 the person's release will be compatible with his or her own  
13 welfare and the welfare of society. No person shall be placed  
14 on parole unless and until the commission is satisfied that he  
15 or she will be suitably employed in self-sustaining employment  
16 or that he or she will not become a public charge. The  
17 commission shall determine the terms upon which such person  
18 shall be granted parole. If the person's conviction was for a  
19 controlled substance violation, one of the conditions must be  
20 that the person submit to random substance abuse testing  
21 intermittently throughout the term of supervision, upon the  
22 direction of the correctional probation officer as defined in  
23 s. 943.10(3). Regardless of the offense, the offender must  
24 consent to a search of his or her person, property, or  
25 residence as requested by the correctional probation officer.  
26 In addition to any other lawful condition of parole, the  
27 commission may make the payment of the debt due and owing to  
28 the state under s. 960.17 or the payment of the attorney's  
29 fees and costs due and owing to a county under s. 938.29 a  
30 condition of parole subject to modification based on change of  
31 circumstances.

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1           Section 41. Subsections (1) and (2) of section 947.22,  
2 Florida Statutes, are amended to read:

3           947.22 Authority to arrest and search ~~parole~~ violators  
4 with or without warrant.--

5           (1) If a member of the commission or a duly authorized  
6 representative of the commission has reasonable grounds to  
7 believe that a parolee has violated the terms and conditions  
8 of her or his parole in a material respect, such member or  
9 representative may issue a warrant for the arrest of such  
10 parolee. The warrant shall be returnable before a member of  
11 the commission or a duly authorized representative of the  
12 commission. The commission, a commissioner, or a parole  
13 examiner with approval of the parole examiner supervisor, may  
14 release the parolee on bail or her or his own recognizance,  
15 conditioned upon her or his appearance at any hearings noticed  
16 by the commission. If not released on bail or her or his own  
17 recognizance, the parolee shall be committed to jail pending  
18 hearings pursuant to s. 947.23. The commission, at its  
19 election, may have the hearing conducted by one or more  
20 commissioners or by a duly authorized representative of the  
21 commission. Any correctional probation officer ~~parole and~~  
22 ~~probation officer~~, any officer authorized to serve criminal  
23 process, or any peace officer of this state is authorized to  
24 execute the warrant.

25           (2) Any correctional probation officer ~~parole and~~  
26 ~~probation officer~~, when she or he has reasonable ground to  
27 believe that a parolee, control releasee, or conditional  
28 releasee has violated the terms and conditions of her or his  
29 parole, control release, or conditional release in a material  
30 respect, has the right to arrest the releasee or parolee  
31 without warrant and bring her or him forthwith before one or

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1 more commissioners or a duly authorized representative of the  
2 Parole Commission or Control Release Authority; and  
3 proceedings shall thereupon be had as provided herein when a  
4 warrant has been issued by a member of the commission or  
5 authority or a duly authorized representative of the  
6 commission or authority. When any correctional probation  
7 officer has reasonable grounds to believe that a parolee,  
8 control releasee, or conditional releasee has violated the  
9 terms and conditions of her or his parole, control release, or  
10 conditional release in a material respect or is in possession  
11 of contraband or other items that the person is prohibited  
12 from possessing, the correctional probation officer may search  
13 the person, property, or residence of the parolee or releasee  
14 or request a law enforcement officer to do the same. However,  
15 if a correctional probation officer conducts a search without  
16 reasonable grounds, the evidence seized may only be admitted  
17 at a hearing for a violation of supervision.

18 Section 42. Subsection (1) of section 948.03, Florida  
19 Statutes, is amended to read:

20 948.03 Terms and conditions of probation or community  
21 control.--

22 (1) The court shall determine the terms and conditions  
23 of probation or community control. Conditions specified in  
24 paragraphs (a) through and including ~~(o)~~ do not require  
25 oral pronouncement at the time of sentencing and may be  
26 considered standard conditions of probation. Conditions  
27 specified in paragraphs (a) through and including ~~(o)~~ and  
28 (2)(a) do not require oral pronouncement at sentencing and may  
29 be considered standard conditions of community control. These  
30 conditions may include among them the following, that the  
31 probationer or offender in community control shall:

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- 1           (a) Report to the probation and parole supervisors as  
2 directed.
- 3           (b) Permit such supervisors to visit him or her at his  
4 or her home or elsewhere.
- 5           (c) Work faithfully at suitable employment insofar as  
6 may be possible.
- 7           (d) Remain within a specified place.
- 8           (e) Make reparation or restitution to the aggrieved  
9 party for the damage or loss caused by his or her offense in  
10 an amount to be determined by the court. The court shall make  
11 such reparation or restitution a condition of probation,  
12 unless it determines that clear and compelling reasons exist  
13 to the contrary. If the court does not order restitution, or  
14 orders restitution of only a portion of the damages, as  
15 provided in s. 775.089, it shall state on the record in detail  
16 the reasons therefor.
- 17           (f) Effective July 1, 1994, and applicable for  
18 offenses committed on or after that date, make payment of the  
19 debt due and owing to a county or municipal detention facility  
20 under s. 951.032 for medical care, treatment, hospitalization,  
21 or transportation received by the felony probationer while in  
22 that detention facility. The court, in determining whether to  
23 order such repayment and the amount of such repayment, shall  
24 consider the amount of the debt, whether there was any fault  
25 of the institution for the medical expenses incurred, the  
26 financial resources of the felony probationer, the present and  
27 potential future financial needs and earning ability of the  
28 probationer, and dependents, and other appropriate factors.
- 29           (g) Support his or her legal dependents to the best of  
30 his or her ability.
- 31           (h) Make payment of the debt due and owing to the

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1 state under s. 960.17, subject to modification based on change  
2 of circumstances.

3 (i) Pay any application fee assessed under s.  
4 27.52(1)(c) and attorney's fees and costs assessed under s.  
5 938.29, subject to modification based on change of  
6 circumstances.

7 (j) Not associate with persons engaged in criminal  
8 activities.

9 (k)1. Submit to random testing as directed by the  
10 correctional probation officer or the professional staff of  
11 the treatment center where he or she is receiving treatment to  
12 determine the presence or use of alcohol or controlled  
13 substances.

14 2. If the offense was a controlled substance violation  
15 and the period of probation immediately follows a period of  
16 incarceration in the state correction system, the conditions  
17 shall include a requirement that the offender submit to random  
18 substance abuse testing intermittently throughout the term of  
19 supervision, upon the direction of the correctional probation  
20 officer as defined in s. 943.10(3).

21 (l) Be prohibited from possessing, carrying, or owning  
22 any firearm unless authorized by the court and consented to by  
23 the probation officer.

24 (m) Be prohibited from using intoxicants to excess or  
25 possessing any drugs or narcotics unless prescribed by a  
26 physician. The probationer or community controllee shall not  
27 knowingly visit places where intoxicants, drugs, or other  
28 dangerous substances are unlawfully sold, dispensed, or used.

29 (n) For offenses involving victims, not have contact  
30 with the victim unless otherwise authorized by the court. If  
31 the court authorizes the defendant to have contact with the

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1 victim, over the objection of the victim or state attorney,  
2 the court shall state on the record in detail the reasons  
3 therefor. For purposes of this paragraph, "contact" means  
4 willful and knowing intent to be physically in the presence of  
5 the victim in any manner, or oral or written communication to  
6 the victim by any means. Contact is established by the conduct  
7 of the defendant, or by anyone acting at the direction of the  
8 defendant. It shall be the duty of the defendant to leave  
9 immediately the presence of the victim under any circumstance  
10 when incidental or unintended contact takes place.

11 (o) Consent to search of his or her person, property,  
12 or residence as requested by the supervising probation or  
13 community control officer. The offender must be given actual  
14 notice that he or she must consent to a search and that  
15 evidence seized may be used against the offender in a trial of  
16 a new substantive offense. Such notice must be given orally  
17 and in writing by a correctional probation officer and signed  
18 by the offender in order for the offender to be subject to  
19 this paragraph.

20 (p)(n) Attend an HIV/AIDS awareness program consisting  
21 of a class of not less than 2 hours or more than 4 hours in  
22 length, the cost for which shall be paid by the offender, if  
23 such a program is available in the county of the offender's  
24 residence.

25 (q)(o) Pay not more than \$1 per month during the term  
26 of probation or community control to a nonprofit organization  
27 established for the sole purpose of supplementing the  
28 rehabilitative efforts of the Department of Corrections.

29 Section 43. For the purpose of incorporating the  
30 amendment to section 948.03, Florida Statutes, in references  
31 thereto, the following sections or subdivisions of Florida

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1 Statutes are reenacted to read:

2 947.23 Action of commission upon arrest of parolee.--

3 (6) Within a reasonable time after the hearing, the  
4 commissioner, commissioners, or duly authorized representative  
5 of the commission who conducted the hearing shall make  
6 findings of fact in regard to the alleged parole violation.

7 (a) If the hearing was conducted by three or more  
8 commissioners, a majority of them shall enter an order  
9 determining whether the charges of parole violation have been  
10 sustained, based on the findings of fact made by them. By  
11 such order they shall revoke the parole and return the parolee  
12 to prison to serve the sentence theretofore imposed upon her  
13 or him, reinstate the original order of parole, order the  
14 placement of the parolee into a community control program as  
15 set forth in s. 948.03, or enter such other order as is  
16 proper.

17 (b) If the hearing was conducted by one or two  
18 commissioners or a duly authorized representative of the  
19 commission, at least two commissioners shall enter an order  
20 determining whether or not the charges of parole violation  
21 have been sustained, based on the findings of fact made by the  
22 commissioner, commissioners, or duly authorized representative  
23 of the commission. The commissioners, by such order, shall  
24 revoke the parole and return the parolee to prison to serve  
25 the sentence theretofore imposed upon her or him, reinstate  
26 the original order of parole, order the placement of the  
27 parolee into a community control program as set forth in s.  
28 948.03, or enter such other order as is proper.

29 (c) If the disposition after the revocation hearing is  
30 to place the parolee into a community control program, the  
31 commission shall be guided by the procedures and requirements



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1 provided in chapter 948 which apply to the courts regarding  
2 the development and implementation of community control.

3  
4 However, any decision to revoke parole shall be based on a  
5 violation of a term or condition specifically enumerated in  
6 the parole release order. In a case in which parole is  
7 revoked, the majority of the commission or the two  
8 commissioners shall make a written statement of the evidence  
9 relied on and the reasons for revoking parole.

10 948.001 Definitions.--As used in this chapter, the  
11 term:

12 (5) "Probation" means a form of community supervision  
13 requiring specified contacts with parole and probation  
14 officers and other terms and conditions as provided in s.  
15 948.03.

16 958.03 Definitions.--As used in this act:

17 (4) "Probation" means a form of community supervision  
18 requiring specified contacts with parole and probation  
19 officers and other terms and conditions as provided in s.  
20 948.03.

21 Section 44. Subsection (1) of section 948.06, Florida  
22 Statutes, is amended, and subsections (8), (9), (10), (11) and  
23 (12) are added to said section, to read:

24 948.06 Violation of probation or community control;  
25 revocation; modification; continuance; failure to pay  
26 restitution or cost of supervision.--

27 (1) Whenever within the period of probation or  
28 community control there are reasonable grounds to believe that  
29 a violation of probation or community control occurred, or  
30 there are reasonable grounds to believe that the person under  
31 supervision is in possession of contraband or other items that

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1 the person is prohibited from possessing, the person on  
2 probation or community control may be arrested without a  
3 warrant or have his or her person, property, or residence  
4 searched without a warrant by any of the following people:  
5 (a) A probation officer who is aware that the person  
6 is on probation;  
7 (b) A community control officer who is aware that the  
8 person is on community control; or  
9 (c) A law enforcement officer who is requested by a  
10 probation or community control officer who has knowledge that  
11 the person is on probation or community control.

12  
13 However, if a supervising officer conducts a search without  
14 reasonable grounds, the evidence seized may only be admitted  
15 at a hearing for violation of supervision.~~Whenever within the~~  
16 ~~period of probation or community control there are reasonable~~  
17 ~~grounds to believe that a probationer or offender in community~~  
18 ~~control has violated his or her probation or community control~~  
19 ~~in a material respect, any law enforcement officer who is~~  
20 ~~aware of the probationary or community control status of the~~  
21 ~~probationer or offender in community control or any parole or~~  
22 ~~probation supervisor may arrest or request any county or~~  
23 ~~municipal law enforcement officer to arrest such probationer~~  
24 ~~or offender without warrant wherever found and forthwith~~  
25 ~~return him or her to the court granting such probation or~~  
26 ~~community control.~~Any committing magistrate may issue a  
27 warrant, upon the facts being made known to him or her by  
28 affidavit of one having knowledge of such facts, for the  
29 arrest of the probationer or offender, returnable forthwith  
30 before the court granting such probation or community control.  
31 Any parole or probation supervisor, any officer authorized to

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1 serve criminal process, or any peace officer of this state is  
2 authorized to serve and execute such warrant. The court, upon  
3 the probationer or offender being brought before it, shall  
4 advise him or her of such charge of violation and, if such  
5 charge is admitted to be true, may forthwith revoke, modify,  
6 or continue the probation or community control or place the  
7 probationer into a community control program. If probation or  
8 community control is revoked, the court shall adjudge the  
9 probationer or offender guilty of the offense charged and  
10 proven or admitted, unless he or she has previously been  
11 adjudged guilty, and impose any sentence which it might have  
12 originally imposed before placing the probationer on probation  
13 or the offender into community control. If such violation of  
14 probation or community control is not admitted by the  
15 probationer or offender, the court may commit him or her or  
16 release him or her with or without bail to await further  
17 hearing, or it may dismiss the charge of probation or  
18 community control violation. If such charge is not at that  
19 time admitted by the probationer or offender and if it is not  
20 dismissed, the court, as soon as may be practicable, shall  
21 give the probationer or offender an opportunity to be fully  
22 heard on his or her behalf in person or by counsel. After such  
23 hearing, the court may revoke, modify, or continue the  
24 probation or community control or place the probationer into  
25 community control. If such probation or community control is  
26 revoked, the court shall adjudge the probationer or offender  
27 guilty of the offense charged and proven or admitted, unless  
28 he or she has previously been adjudged guilty, and impose any  
29 sentence which it might have originally imposed before placing  
30 the probationer or offender on probation or into community  
31 control.

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1           (6) Any parolee in a community control program who has  
2 allegedly violated the terms and conditions of such placement  
3 is subject to the provisions of ss. 947.22 and 947.23.

4           (8) When evidence seized during a search of the  
5 person, property, or residence of an offender on probation or  
6 community control conducted by or authorized by a correctional  
7 probation officer is to be used in the prosecution of a new  
8 law violation, the following criteria must be met:

9           (a) There are reasonable grounds to believe the  
10 offender violated a condition of community control or  
11 probation, or committed a new violation of law, and at least  
12 one of the following applies:

13           1. The approval of the supervisor of the probation or  
14 community control officer is obtained;

15           2. There are exigent circumstances, such as, but not  
16 limited to, suspicion the offender will destroy contraband or  
17 use a weapon, which require that the search be conducted  
18 without approval; or

19           3. The search was conducted with the assistance of a  
20 certified law enforcement officer.

21           4. This subsection is not intended to expand the  
22 definition of the term "constructive possession" as provided  
23 by law.

24           (b) A written report of a search of a residence  
25 conducted by a correctional probation officer pursuant to  
26 subsection (8) shall be prepared by the correctional probation  
27 officer who conducted the search. The report shall provide:

28           1. The identity of the offender living at the  
29 residence searched;

30           2. The identity of the probation or community control  
31 officer who conducted or requested the search;

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- 1           3. The date, time, and place of the search;
- 2           4. The reason for the search;
- 3           5. Any items seized pursuant to the search; and
- 4           6. Whether any damage was done to the residence or
- 5 property during the search.

6           (c) For the purposes of a search of the person's  
 7 property, or residence of a person on probation or community  
 8 control, the term "reasonable grounds" means that the  
 9 reasonable suspicion standard applies. In determining whether  
 10 reasonable grounds exist, the correctional probation officer  
 11 shall consider any of the following factors, including but not  
 12 limited to:

13           1. The observations of alleged suspicious behavior by  
 14 correctional probation officers or law enforcement officers.

15           2. Information provided by informants.

16           3. The reliability of the information provided by an  
 17 informant. In evaluating the reliability of the information,  
 18 the correctional probation officers shall give attention to  
 19 the detail, consistency and corroboration of the information  
 20 provided by the informant.

21           4. The reliability of the informant. In evaluating  
 22 the informant's reliability, attention shall be given to  
 23 whether the informant has supplied reliable information in the  
 24 past and whether the informant has reason to supply inaccurate  
 25 information.

26           5. The activity of the offender that relates to  
 27 whether the offender might possess contraband or might have  
 28 used or be under the influence of an intoxicating substance.

29           6. Information provided by the offender that is  
 30 relevant to whether the offender has used, possesses or is  
 31 under the influence of an intoxicating substance or possesses

1 any other contraband.

2 7. The experience of a correctional probation officer  
3 with that offender.

4 8. Prior seizures of contraband from the offender.

5 9. The need to verify compliance with rules of  
6 supervision and state and federal law.

7 (9) Evidence may not be excluded or suppressed from  
8 the trial of a new substantive offense if:

9 (a) The defendant was on probation or community  
10 control at the time of the offense; and

11 (b) The search was conducted when there were  
12 reasonable grounds to believe that the offender was in  
13 violation of the law or in violation of the terms of probation  
14 or community control.

15 (10) Evidence may not be excluded or suppressed from a  
16 hearing for a violation of probation or community control.

17 Section 45. For the purpose of incorporating the  
18 amendments to section 948.06, Florida Statutes, in references  
19 thereto, the following sections or subdivisions of Florida  
20 Statutes are reenacted to read:

21 948.01 When court may place defendant on probation or  
22 into community control.--

23 (9) Procedures governing violations of community  
24 control shall be the same as those described in s. 948.06 with  
25 respect to probation.

26 (11) The court may also impose a split sentence  
27 whereby the defendant is sentenced to a term of probation  
28 which may be followed by a period of incarceration or, with  
29 respect to a felony, into community control, as follows:

30 (b) If the offender does not meet the terms and  
31 conditions of probation or community control, the court may

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1 revoke, modify, or continue the probation or community control  
2 as provided in s. 948.06. If the probation or community  
3 control is revoked, the court may impose any sentence that it  
4 could have imposed at the time the offender was placed on  
5 probation or community control. The court may not provide  
6 credit for time served for any portion of a probation or  
7 community control term toward a subsequent term of probation  
8 or community control. However, the court may not impose a  
9 subsequent term of probation or community control which, when  
10 combined with any amount of time served on preceding terms of  
11 probation or community control for offenses pending before the  
12 court for sentencing, would exceed the maximum penalty  
13 allowable as provided in s. 775.082. Such term of  
14 incarceration shall be served under applicable law or county  
15 ordinance governing service of sentences in state or county  
16 jurisdiction. This paragraph does not prohibit any other  
17 sanction provided by law.

18 (13) If it appears to the court upon a hearing that  
19 the defendant is a chronic substance abuser whose criminal  
20 conduct is a violation of chapter 893, the court may either  
21 adjudge the defendant guilty or stay and withhold the  
22 adjudication of guilt; and, in either case, it may stay and  
23 withhold the imposition of sentence and place the defendant on  
24 drug offender probation.

25 (b) Offenders placed on drug offender probation are  
26 subject to revocation of probation as provided in s. 948.06.

27 958.14 Violation of probation or community control  
28 program.--A violation or alleged violation of probation or the  
29 terms of a community control program shall subject the  
30 youthful offender to the provisions of s. 948.06(1). However,  
31 no youthful offender shall be committed to the custody of the

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1 department for a substantive violation for a period longer  
 2 than the maximum sentence for the offense for which he or she  
 3 was found guilty, with credit for time served while  
 4 incarcerated, or for a technical or nonsubstantive violation  
 5 for a period longer than 6 years or for a period longer than  
 6 the maximum sentence for the offense for which he or she was  
 7 found guilty, whichever is less, with credit for time served  
 8 while incarcerated.

9           Section 46. If any provision of this act or the  
 10 application thereof to any person or circumstance is held  
 11 invalid, the invalidity shall not affect other provisions or  
 12 applications of the act which can be given effect without the  
 13 invalid provision or application, and to this end the  
 14 provisions of this act are declared severable.

15           Section 47. Except as otherwise provided herein, this  
 16 act shall take effect upon becoming a law.

17  
18

19 ===== T I T L E   A M E N D M E N T =====

20 And the title is amended as follows:

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

22

23 and insert in lieu thereof:

24                           A bill to be entitled  
 25           An act relating to criminal justice; amending  
 26           s. 951.23, F.S.; providing a criminal penalty  
 27           for refusing to obey jail rules and  
 28           regulations; requiring that a printed copy of  
 29           rules be provided to prisoners; providing a  
 30           definition; terminating specified trust funds  
 31           and fund accounts within the state courts



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1 system and the Department of Corrections;  
2 providing for the transfer of current balances  
3 to general revenue, the paying of outstanding  
4 debts and obligations, and the removal of the  
5 terminated funds and accounts from the various  
6 state accounting systems; modifying provisions  
7 relating to specified trust funds and fund  
8 accounts within the state courts system and the  
9 Department of Corrections; amending s. 216.272,  
10 F.S., relating to Working Capital Trust Funds  
11 used to fund data processing centers; removing  
12 reference to the judicial branch; amending s.  
13 945.215, F.S.; providing sources of funds and  
14 purposes of the Inmate Welfare Trust Fund, the  
15 Privately Owned Institutions Inmate Welfare  
16 Trust Fund, and the Employee Benefit Trust Fund  
17 within the department; providing for annual  
18 appropriation of funds deposited in the Inmate  
19 Welfare Trust Fund; requiring certain annual  
20 reports; amending s. 944.803, F.S., relating to  
21 faith-based programs for inmates; revising a  
22 reference, to conform; amending s. 945.31,  
23 F.S.; providing for deposit of the department's  
24 administrative processing fee in the  
25 department's Operating Trust Fund; amending s.  
26 945.76, F.S.; revising provisions relating to  
27 fees for certification and monitoring of  
28 batterers' intervention programs; providing for  
29 deposit of such fees in the department's  
30 Operating Trust Fund; amending s. 944.10, F.S.;  
31 providing for deposit of contractual service

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1 and inmate labor fees in the Correctional Work  
2 Program Trust Fund; amending s. 948.09, F.S.;  
3 providing for deposit of the electronic  
4 monitoring surcharge in the department's  
5 Operating Trust Fund; amending s. 951.23, F.S.;  
6 providing for deposit of fees collected  
7 pursuant to local detention facility inspection  
8 agreements in the department's Operating Trust  
9 Fund; creating s. 386.213, F.S.; providing  
10 legislative intent; requiring the Department of  
11 Corrections and private vendors operating state  
12 correctional facilities to make  
13 smoking-cessation assistance available to  
14 inmates; requiring full implementation of the  
15 act by a specified date; providing definitions;  
16 prohibiting an inmate within a state  
17 correctional facility from using tobacco  
18 products in prohibited areas; prohibiting  
19 employees or visitors from using tobacco  
20 products in prohibited areas; providing  
21 penalties; authorizing the department to adopt  
22 rules; amending s. 386.203(1), F.S.; adding  
23 state correctional facilities to the definition  
24 of public place; amending s. 945.10, F.S.,  
25 relating to confidential information and other  
26 information available to inmates and offenders  
27 in the correctional system or under  
28 supervision; defining terms; prohibiting  
29 certain disclosure or use of certain "personal  
30 information about another person," as defined,  
31 by an inmate or offender with intent to obtain

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1 a benefit from, harass, harm, or defraud such  
2 person; providing penalties; providing that an  
3 inmate or offender convicted of such offense is  
4 prohibited from subsequent participation in  
5 correctional work programs or other programs;  
6 providing that an inmate or offender convicted  
7 of such offense is subject to forfeiture of  
8 gain-time; providing for adoption of rules by  
9 the department; amending s. 99.012, F.S.;  
10 requiring a subordinate officer, deputy  
11 sheriff, or police officer seeking to qualify  
12 for a public office to resign or take a leave  
13 of absence, depending on certain circumstances  
14 relating to the office sought; providing that  
15 certain proviso language contained in the  
16 Conference Report On House Bill 4201 may not be  
17 modified through substantive legislation passed  
18 during the 1998 regular session of the  
19 Legislature unless certain conditions are met;  
20 providing that certain proviso language  
21 contained in the Conference Report On House  
22 Bill 4201 is reenacted if repealed or amended  
23 by substantive legislation passed during the  
24 1998 regular session of the Legislature;  
25 providing for repeal of section on June 30,  
26 1999; amending s. 957.03, F.S.; specifying  
27 circumstances under which an act of the  
28 commission is binding; eliminating the  
29 requirement for the commission to include  
30 certain recidivism data in the annual report to  
31 the Legislature; permitting the commission to

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

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1 and report its findings to the Legislature;  
2 requiring the commission to contract with an  
3 academic researcher for fiscal year 1998-1999  
4 to produce a comparative recidivism rate study;  
5 providing for development by consensus and  
6 approval of a methodology and sampling strategy  
7 by the researcher, the director of the Division  
8 of Economic and Demographic Research of the  
9 Joint Legislative Management Committee, or  
10 successor entity, and a Department of  
11 Corrections staff person; prescribing certain  
12 uses of the methodology and sampling strategy;  
13 providing for a report to the Legislature;  
14 repealing s. 957.125(1), (3) and (4), F.S.,  
15 relating to the original authorization to enter  
16 into contracts and transfer arrangements for  
17 youthful offender facilities; removing obsolete  
18 provisions; repealing s. 944.711, F.S.,  
19 relating to requests for proposals and  
20 construction of certain departmental  
21 facilities; repealing s. 957.04(8), F.S.,  
22 relating to an expenditure to defray impact  
23 costs; removing obsolete provisions; amending  
24 s. 945.603, F.S.; authorizing the Correctional  
25 Medical Authority to review and advise the  
26 Correctional Privatization Commission on inmate  
27 health care; revising powers and duties of the  
28 authority; conforming terminology; amending s.  
29 945.6031, F.S.; revising responsibilities of  
30 the authority and guidelines for required  
31 reports and surveys; requiring the authority to

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1           conduct surveys of the physical and mental  
2           health care system at private correctional  
3           facilities; requiring certain reports; amending  
4           s. 945.6035, F.S.; requiring the authority and  
5           either the Assistant Secretary of Health  
6           Services of the department or the Executive  
7           Director of the Correctional Privatization  
8           Commission to attempt to expeditiously resolve  
9           any disputes between the authority and the  
10          department or the commission regarding the  
11          physical and mental health care of inmates in  
12          private prisons; providing for appeal, review,  
13          and resolution; requiring the decision of the  
14          Administration Commission to be final and  
15          binding; creating s. 957.041, F.S.; requiring  
16          the department to notify the commission of the  
17          profile of the inmates anticipated to be housed  
18          in a private correctional facility; requiring  
19          the commission to negotiate and enter into  
20          contracts for private correctional services  
21          based upon the inmate profile; amending ss.  
22          921.141 and 921.142, F.S.; prescribing the  
23          penalty to be imposed if the defendant is  
24          determined to be mentally retarded; amending s.  
25          924.07, F.S.; providing that the state may  
26          appeal a determination that a defendant is  
27          mentally retarded; providing a definition of  
28          mental retardation; providing severability;  
29          providing an appropriation; directing the  
30          Correctional Privatization Commission to issue  
31          certain invitations to bid for designing,

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1       acquiring, constructing, and operating an adult  
2       prison or youthful offender facility of  
3       specified capacity; providing duties of the  
4       Correctional Privatization Commission,  
5       guidelines, and cost limitations with respect  
6       to the invitations to bid for the projects;  
7       providing for funding; requiring transfer of  
8       certain appropriation moneys by the Executive  
9       Office of the Governor for first year fixed  
10      capital outlay costs of the project to which  
11      the first invitation to bid is applicable;  
12      providing that funding for such costs of a  
13      contract awarded pursuant to the second  
14      invitation to bid is subject to legislative  
15      appropriation during the 1999 Regular Session;  
16      providing guidelines for award of the contracts  
17      by the Correctional Privatization Commission;  
18      providing that the authority to issue the  
19      invitations to bid shall be in lieu of the  
20      authority and contracts provided in specified  
21      proviso language following Specific  
22      Appropriation 589 of the Conference Report on  
23      House Bill 4201; providing for repeal of the  
24      proviso language to the extent of conflict with  
25      specified provisions of act; amending s.  
26      945.485, F.S., relating to subsistence fees  
27      with respect to prisoners; requiring a state  
28      correctional facility, or the Department of  
29      Corrections acting in its behalf, to seek  
30      reimbursement for costs of incarceration for a  
31      prisoner, including certain medical and dental

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1 expenses, which have not been reimbursed as  
2 otherwise provided by law; specifying order of  
3 sources of reimbursement; providing for  
4 deduction of the costs from the prisoner's cash  
5 account, placement of a lien against the  
6 account or the prisoner's other personal  
7 property, or reimbursement from the proceeds of  
8 the prisoner's insurance policy, health care  
9 corporation proceeds, or other source;  
10 providing that the lien may be carried over to  
11 future incarceration under certain  
12 circumstances; requiring the prisoner to  
13 cooperate with such reimbursement efforts;  
14 providing for sanctions in case of willful  
15 refusal to cooperate, including placement of a  
16 lien against the prisoner's cash account or  
17 other personal property and ineligibility to  
18 receive incentive gain-time; clarifying that  
19 the department is responsible for reimbursement  
20 efforts at the private correctional facilities;  
21 creating a task force within the Department of  
22 Corrections to investigate and analyze  
23 strategies to seek reimbursement for inmate  
24 health care costs incurred during  
25 incarceration; amending s. 947.1405, F.S.,  
26 relating to conditional release; providing that  
27 a conditional releasee must submit to searches  
28 of his or her person, property, or residence as  
29 requested by a correctional probation officer;  
30 reenacting s. 775.084(4)(i), F.S., relating to  
31 habitual felony offenders and habitual violent



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1 felony offenders, to incorporate said amendment  
2 in a reference; amending s. 947.18, F.S.,  
3 relating to conditions of parole; providing  
4 that a parolee must submit to searches of his  
5 or her person, property, or residence as  
6 requested by a correctional probation officer;  
7 amending s. 947.22, F.S.; providing for  
8 issuance of arrest warrant for a parole  
9 violator by a correctional probation officer,  
10 under specified circumstances; authorizing a  
11 correctional probation officer to arrest  
12 without warrant a parolee, control releasee, or  
13 conditional releasee, or to search or request  
14 search by a law enforcement officer of the  
15 parolee or releasee's person, property, or  
16 residence, under specified circumstances if  
17 there are reasonable grounds to believe a  
18 violation has occurred or if there are  
19 reasonable grounds to believe the parolee or  
20 releasee possesses prohibited items; providing  
21 that evidence is admissible at a hearing for  
22 violation of supervision even if no reasonable  
23 ground for seizure exists; amending s. 948.03,  
24 F.S., relating to probation and community  
25 control; requiring a probationer or community  
26 controllee on supervision to submit to certain  
27 searches of his or her person, property, or  
28 residence; requiring notice to offender to be  
29 provided; prohibiting a probationer or  
30 community controllee from having "contact," as  
31 defined, with the victim unless authorized by

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1 the court; reenacting s. 947.23(6), F.S.,  
2 relating to action of Parole Commission upon  
3 arrest of parolee, s. 948.001(5), F.S.,  
4 relating to definition of "probation" with  
5 respect to chapter 948, F.S., and s. 958.03(4),  
6 F.S., relating to definition of "probation"  
7 with respect to specified provisions in chapter  
8 958, F.S., to incorporate said amendment in  
9 references; amending s. 948.06, F.S., relating  
10 to violations of probation or community  
11 control; authorizing law enforcement officers  
12 and probation or community control officers to  
13 search without a warrant the person, property,  
14 or residence of any of specified offenders  
15 under certain circumstances; limiting authority  
16 for searches of residences; requiring report  
17 when residence is searched; defining reasonable  
18 grounds; prohibiting the exclusion or  
19 suppression of evidence from trials for  
20 subsequent offenses by offenders on probation  
21 or community control under certain  
22 circumstances when there were "reasonable  
23 grounds," to believe that at the time of the  
24 search the offender violated the law or the  
25 terms of supervision; providing that evidence  
26 is admissible at a hearing for violation of  
27 supervision even if no reasonable ground for  
28 seizure exists; prohibiting the exclusion or  
29 suppression of evidence from hearings for  
30 violation of supervision of offenders on  
31 probation or community control; reenacting s.

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1 948.01(9), (11)(b), and (13)(b), F.S., relating  
2 to circumstances when a court may place a  
3 defendant on probation or into community  
4 control, and s. 958.14, F.S., relating to  
5 violation of probation or community control  
6 program, to incorporate said amendment in  
7 references; providing severability; providing  
8 effective dates.  
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