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Bill No. CS/HB 3527

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Trovillion offered the following:

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

remove: the entire amendment

and insert in lieu thereof:

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

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

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

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

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

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

12           (a) Within the state courts system:

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

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

16           (b) Within the Department of Corrections:

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

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

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

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

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

3 216.272 Working Capital Trust Funds.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11           6. All proceeds from:

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

14           b. Disciplinary fines imposed against inmates;

15           c. Forfeitures of inmate earnings; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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1 legislative appropriation.

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

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

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

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

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

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

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

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

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

6 944.803 Faith-based programs for inmates.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 inmate labor.--

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

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

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

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

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

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

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

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

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

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

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

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

21 (2) As used in this section, the term:

22 (a) "Department" means the Department of Corrections.

23 (b) "Employee" means an employee of the department or  
24 a private vendor in a contractual relationship with either the  
25 Department of Corrections or the Correctional Privatization  
26 Commission, and includes persons such as contractors,  
27 volunteers, or law enforcement officers who are within a state  
28 correctional facility to perform a professional service.

29 (c) "State correctional facility" means a state or  
30 privately operated correctional institution as defined in s.  
31 944.02, or a correctional institution or facility operated

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1 under s. 944.105 or chapter 957.

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

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

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

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

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

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

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



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

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

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

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

14           (a) Government buildings;

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

18           (c) Elevators;

19           (d) Hospitals;

20           (e) Nursing homes;

21           (f) Educational facilities;

22           (g) Public school buses;

23           (h) Libraries;

24           (i) Courtrooms;

25           (j) Jury waiting and deliberation rooms;

26           (k) Museums;

27           (l) Theaters;

28           (m) Auditoriums;

29           (n) Arenas;

30           (o) Recreational facilities;

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

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

4 (r) Grocery stores;

5 (s) Places of employment;

6 (t) Health care facilities;

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

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

10 (w) State correctional facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (5) The Department of Corrections and the Parole

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

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

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

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

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

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

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

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

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

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

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

1 that office.

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

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

10 922.11 Regulation of execution.--

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

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

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



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1 are bodies of prisoners dying in the state prison.

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

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

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

28 957.03 Correctional Privatization Commission.--

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

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

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

7 (4) DUTIES.--

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

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

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

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

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1 those included in the General Appropriations Act for the  
2 department pursuant to s. 216.0166.  
3 Section 18. Section 957.031, Florida Statutes, is  
4 created to read:  
5 957.031 Prohibited conduct by commission member,  
6 employee, consultant, or adviser.--  
7 (1) Any commission member, employee, or consultant who  
8 reviews, monitors, or approves private correctional facility  
9 contracts, or who advises the commission in any manner with  
10 respect to private correctional facilities, may not:  
11 (a) Solicit or accept, directly or indirectly, any  
12 personal benefit or promise of benefit from any bidders,  
13 potential bidders, or contractors; or  
14 (b) Be an officer, director, trustee, stockholder, or  
15 investor in any business entity that:  
16 1. Has a business relationship of any kind with the  
17 commission;  
18 2. Is owned or controlled by a business entity that  
19 has a business relationship of any kind with the commission;  
20 or  
21 3. Is owned or controlled by one or more individuals  
22 or business entities who, separately or collectively, own or  
23 control a business entity that has a business relationship of  
24 any kind with the commission.  
25 (2) This section shall not be construed to conflict  
26 with s. 112.313, s. 112.3145, or s. 112.3148.  
27 Section 19. Section 957.06, Florida Statutes, is  
28 amended to read:  
29 957.06 Powers and duties not delegable to  
30 contractor.--A contract entered into under this chapter does  
31 not authorize, allow, or imply a delegation of authority to

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1 the contractor to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 957.125 Correctional facilities for youthful  
9 offenders.--

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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1 Department of Corrections.

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

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

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

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

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

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

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

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

31 945.6031 Required reports and surveys.--

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

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

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

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

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

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

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

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

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

21           945.6035 Dispute resolution.--

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

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

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

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

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

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

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

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

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

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

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

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1 pursuant to s. 945.6031.

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

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

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

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

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

31 (a) Education grade and literacy level;

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

6

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

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

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

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

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

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

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



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

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

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

31 921.142 Sentence of death or life imprisonment for

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

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

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

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1 present argument for or against sentence of death.

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

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

8 924.07 Appeal by state.--

9 (1) The state may appeal from:

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

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

26 Section 36. This act shall take effect upon becoming a  
27 law.

28  
29

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

31 And the title is amended as follows:

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1 remove from the title of the amendment: the entire title  
2  
3 and insert in lieu thereof:  
4                                   A bill to be entitled  
5           An act relating to criminal justice; amending  
6           s. 951.23, F.S.; providing a criminal penalty  
7           for refusing to obey jail rules and  
8           regulations; requiring that a printed copy of  
9           rules be provided to prisoners; providing a  
10          definition; terminating specified trust funds  
11          and fund accounts within the state courts  
12          system and the Department of Corrections;  
13          providing for the transfer of current balances  
14          to general revenue, the paying of outstanding  
15          debts and obligations, and the removal of the  
16          terminated funds and accounts from the various  
17          state accounting systems; modifying provisions  
18          relating to specified trust funds and fund  
19          accounts within the state courts system and the  
20          Department of Corrections; amending s. 216.272,  
21          F.S., relating to Working Capital Trust Funds  
22          used to fund data processing centers; removing  
23          reference to the judicial branch; amending s.  
24          945.215, F.S.; providing sources of funds and  
25          purposes of the Inmate Welfare Trust Fund, the  
26          Privately Owned Institutions Inmate Welfare  
27          Trust Fund, and the Employee Benefit Trust Fund  
28          within the department; providing for annual  
29          appropriation of funds deposited in the Inmate  
30          Welfare Trust Fund; requiring certain annual  
31          reports; amending s. 944.803, F.S., relating to

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1 faith-based programs for inmates; revising a  
2 reference, to conform; amending s. 945.31,  
3 F.S.; providing for deposit of the department's  
4 administrative processing fee in the  
5 department's Operating Trust Fund; amending s.  
6 945.76, F.S.; revising provisions relating to  
7 fees for certification and monitoring of  
8 batterers' intervention programs; providing for  
9 deposit of such fees in the department's  
10 Operating Trust Fund; amending s. 944.10, F.S.;  
11 providing for deposit of contractual service  
12 and inmate labor fees in the Correctional Work  
13 Program Trust Fund; amending s. 948.09, F.S.;  
14 providing for deposit of the electronic  
15 monitoring surcharge in the department's  
16 Operating Trust Fund; amending s. 951.23, F.S.;  
17 providing for deposit of fees collected  
18 pursuant to local detention facility inspection  
19 agreements in the department's Operating Trust  
20 Fund; creating s. 386.213, F.S.; providing  
21 legislative intent; requiring the Department of  
22 Corrections and private vendors operating state  
23 correctional facilities to make  
24 smoking-cessation assistance available to  
25 inmates; requiring full implementation of the  
26 act by a specified date; providing definitions;  
27 prohibiting an inmate within a state  
28 correctional facility from using tobacco  
29 products in prohibited areas; prohibiting  
30 employees or visitors from using tobacco  
31 products in prohibited areas; providing

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1 penalties; authorizing the department to adopt  
2 rules; amending s. 386.203(1), F.S.; adding  
3 state correctional facilities to the definition  
4 of public place; amending s. 945.10, F.S.,  
5 relating to confidential information and other  
6 information available to inmates and offenders  
7 in the correctional system or under  
8 supervision; defining terms; prohibiting  
9 certain disclosure or use of certain "personal  
10 information about another person," as defined,  
11 by an inmate or offender with intent to obtain  
12 a benefit from, harass, harm, or defraud such  
13 person; providing penalties; providing that an  
14 inmate or offender convicted of such offense is  
15 prohibited from subsequent participation in  
16 correctional work programs or other programs;  
17 providing that an inmate or offender convicted  
18 of such offense is subject to forfeiture of  
19 gain-time; providing for adoption of rules by  
20 the department; amending s. 99.012, F.S.;  
21 requiring a subordinate officer, deputy  
22 sheriff, or police officer seeking to qualify  
23 for a public office to resign or take a leave  
24 of absence, depending on certain circumstances  
25 relating to the office sought; amending s.  
26 922.11, F.S.; prohibiting videotape recorders  
27 and other electronic or mechanical devices and  
28 artistic paraphernalia in the execution  
29 observation room; providing that certain  
30 proviso language contained in the Conference  
31 Report On House Bill 4201 may not be modified

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1 through substantive legislation passed during  
2 the 1998 regular session of the Legislature  
3 unless certain conditions are met; providing  
4 that certain proviso language contained in the  
5 Conference Report On House Bill 4201 is  
6 reenacted if repealed or amended by substantive  
7 legislation passed during the 1998 regular  
8 session of the Legislature; providing for  
9 repeal of section on June 30, 1999; amending s.  
10 957.03, F.S.; specifying circumstances under  
11 which an act of the commission is binding;  
12 eliminating the requirement for the commission  
13 to include certain recidivism data in the  
14 annual report to the Legislature; permitting  
15 the commission to authorize contractors to use  
16 inmate labor in facility construction and in  
17 public work programs, under specified  
18 circumstances; requiring the department to  
19 assign available inmate work crews at the  
20 request of the commission and the contractor,  
21 under specified circumstances; providing for  
22 approval of security procedures; requiring the  
23 reporting of outcome performance measures;  
24 creating s. 957.031, F.S.; prohibiting  
25 specified conduct by a commission member,  
26 employee, or consultant who reviews, monitors,  
27 or approves private correctional facility  
28 contracts, or otherwise advises the commission  
29 with respect to private correctional  
30 facilities; providing for construction;  
31 amending s. 957.06, F.S.; removing provisions

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1 relating to the cooperative transfer agreement;  
2 providing that certain contracts do not  
3 authorize development and implementation of  
4 work programs; providing exceptions; creating  
5 s. 957.061, F.S.; providing for cooperative  
6 transfer agreements; amending s. 957.08, F.S.;  
7 restricting the types of inmates to be assigned  
8 and transferred to private correctional  
9 facilities; amending s. 957.125, F.S.;  
10 providing for applicability of certain program  
11 requirements to contracted youthful offender  
12 facilities; directing the Florida Corrections  
13 Commission to conduct an in-depth analysis on  
14 technology and private services contracts,  
15 develop certain proposals, and report its  
16 findings to the Legislature; requiring the  
17 commission to contract with an academic  
18 researcher for fiscal year 1998-1999 to produce  
19 a comparative recidivism rate study; providing  
20 for development by consensus and approval of a  
21 methodology and sampling strategy by the  
22 researcher, the director of the Division of  
23 Economic and Demographic Research of the Joint  
24 Legislative Management Committee, or successor  
25 entity, and a Department of Corrections staff  
26 person; prescribing certain uses of the  
27 methodology and sampling strategy; providing  
28 for a report to the Legislature; repealing s.  
29 957.125(1), (3) and (4), F.S., relating to the  
30 original authorization to enter into contracts  
31 and transfer arrangements for youthful offender



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1 facilities; removing obsolete provisions;  
2 repealing s. 944.711, F.S., relating to  
3 requests for proposals and construction of  
4 certain departmental facilities; repealing s.  
5 957.04(8), F.S., relating to an expenditure to  
6 defray impact costs; removing obsolete  
7 provisions; amending s. 945.603, F.S.;  
8 authorizing the Correctional Medical Authority  
9 to review and advise the Correctional  
10 Privatization Commission on inmate health care;  
11 revising powers and duties of the authority;  
12 conforming terminology; amending s. 945.6031,  
13 F.S.; revising responsibilities of the  
14 authority and guidelines for required reports  
15 and surveys; requiring the authority to conduct  
16 surveys of the physical and mental health care  
17 system at private correctional facilities;  
18 requiring certain reports; amending s.  
19 945.6035, F.S.; requiring the authority and  
20 either the Assistant Secretary of Health  
21 Services of the department or the Executive  
22 Director of the Correctional Privatization  
23 Commission to attempt to expeditiously resolve  
24 any disputes between the authority and the  
25 department or the commission regarding the  
26 physical and mental health care of inmates in  
27 private prisons; providing for appeal, review,  
28 and resolution; requiring the decision of the  
29 Administration Commission to be final and  
30 binding; creating s. 957.041, F.S.; requiring  
31 the department to notify the commission of the

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1 profile of the inmates anticipated to be housed  
2 in a private correctional facility; requiring  
3 the commission to negotiate and enter into  
4 contracts for private correctional services  
5 based upon the inmate profile; amending ss.  
6 921.141 and 921.142, F.S.; prescribing the  
7 penalty to be imposed if the defendant is  
8 determined to be mentally retarded; amending s.  
9 924.07, F.S.; providing that the state may  
10 appeal a determination that a defendant is  
11 mentally retarded; providing a definition of  
12 mental retardation; providing severability;  
13 providing an appropriation; providing an  
14 effective date.

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