

STORAGE NAME: h3527.cor

DATE: March 5, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CORRECTIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3527

RELATING TO: Jails

SPONSOR(S): Representative Trovillion and others

COMPANION BILL(S): SB 404 (identical)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CORRECTIONS
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill addresses jails and provides for a criminal penalty for the refusal to obey jail rules and regulations. The bill would authorize an additional criminal penalty for any prisoner who refuses to obey certain jail rules and regulations.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In the 1996 legislative session several sections of Chapter 951, F.S., were repealed. (Chapter 96-312, Laws of Florida). The legislative intent was to remove oversight of the county jails by the Department of Corrections (HB 1411).

Specifically, section 951.07, F.S., was repealed. The section read as follows:

951.07 Punishment of prisoner; rules and regulations.--

The flogging or whipping of prisoners in this state is prohibited, but the Department of Corrections may make and enforce suitable and reasonable rules and regulations for the government of such prisoners while serving sentences in prison camps or jails and enforce the same by solitary confinement, restriction of privileges, or any other humane and reasonable method of punishment. Any prisoner in any jail or prison camp of this state who shall repeatedly, knowingly, and willfully refuse to obey any such reasonable rule or regulation while being subject thereto shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and such punishment shall upon his conviction be in addition to the sentence he is then serving.

With the repeal of the s. 951.07, F.S., came the abolition of Chapter 33-8 of the Florida Administrative Code. The 1996 legislative session provided through s. 951.23, F.S., a development of model standards for county and municipal detention facilities. Subsection (4) of section 951.23 established a five member workgroup comprised of three appointments from the Florida Sheriffs Association and two from the Florida Association of Counties. The statute required adoption by October 1, 1996. Each sheriff and chief correctional officer were to adopt at minimum, model standards in reference to the:

- (1) construction, equipping, maintenance, and operation of county and municipal detention facilities;
- (2) cleanliness and sanitation;
- (3) number of prisoners housed per specified unit of floor space;
- (4) quality, quantity, and supply of bedding furnished;
- (5) quality, quantity, and diversity of food served and the manner in which served;
- (6) furnishing of medical attention and health and comfort items; and
- (7) the disciplinary treatment which may be metered out.

Additionally, s. 951.23 (4), F.S., requires certain standards in the following areas:(a) the reduced custody housing areas:, (b) the confinement by classification, and (c) the safe handling, storage and dispensing of medicine.

STORAGE NAME: h3527.cor

DATE: March 5, 1998

PAGE 3

The sheriff or chief correctional officer shall provide that a reduced custody housing area shall be governed by fire and life safety standards which do not interfere with the normal use of the facility and which affect a reasonable degree of compliance with rules of the State Fire Marshal for correctional facilities.

The confinement of prisoners by classification and providing, whenever possible, for classifications which separate males from females, juveniles from adults, felons from misdemeanants, and those awaiting trial from those convicted and, in addition, providing for the separation of special risk prisoners, such as the mentally ill, alcohol or narcotic addicts, sex deviates, suicide risks, and any other classification which the local unit may deem necessary for the safety of the prisoners and the operation of the facility pursuant to degree of risk and danger criteria. Nondangerous felons may be housed with misdemeanants.

A county or municipal detention facility which stocks medicinal drugs in quantities other than individual prescriptions must obtain the services of a consultant pharmacist or dispensing physician and comply with the licensing requirements of chapter 465. A facility which has a valid license pursuant to chapter 465 shall have that part of its medical services relating to procedures for the safe handling and storage of medicinal drugs exempt from the inspection requirements of this section. A facility which maintains only individual prescriptions dispensed by a licensed pharmacist is not required to be licensed under chapter 465.

Florida Model Jail Standards

Standards have been adopted pursuant to s. 951.23(4), F.S., by the Florida Sheriffs' Association and the Association of Counties and filed with the Department of State. The supervision, care, custody, treatment, housing and general handling of inmates are required standards. The standards also address the areas of programs, privileges, security and control, sanitation, contraband and order and discipline.

According to section 4.05 of the standards, each inmate shall be given a copy of the rules and regulations pertaining to inmates. Section 13 details rules and regulations governing the conduct of inmates. Specific attention is given to visitors, as well. The rules and sanctions are posted and made available to each inmate and all visitors.

Disciplinary actions are taken to ensure proper conduct. The rules indicate the procedure for disciplinary action and the method for the establishment and loss of privileges. A list of prohibited acts are listed and not are not meant to be inclusive. Inmates are notified that in addition to disciplinary action, they may also be required to pay for damaged, destroyed, or misappropriated property or goods. These rules are to be in accordance with Chapter 33-22.008, Florida Administrative Code.

Currently, before an established disciplinary committee or disciplinary hearing officer appointed by the Officer-in-Charge, or a designee, infractions are dealt with. The disciplinary hearing process is described in section 13 of the standards. Disciplinary segregation may be used as a sanction and shall be proportionate to the offense committed but shall never be greater than 30 days per violation. Section 9.05(b) designates that no inmate shall be compelled to labor more than 10 hours per day nor be

STORAGE NAME: h3527.cor

DATE: March 5, 1998

PAGE 4

subject to punishment for any refusal to labor beyond such limit. Section 951.08, F.S., specifies that the 10 hours shall be the time elapsed from leaving to the return of the inmate to the place of detention.

B. EFFECT OF PROPOSED CHANGES:

HB 3527 would create subsection (11) of s. 951.23, F.S., to provide a criminal penalty for refusing to obey rules and regulations in the county or municipal detention. This creation provides for the reclassification of jail rule infractions.

The bill would reenact previous language which provided for violations of jail rules to be punishable as a second degree misdemeanor as permitted in sections 775.082 and/ or 775.083, F.S..

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The prosecution of violators becomes labor intensive.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

s. 951.23, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1.

The bill proposes to re-enact a portion of repealed s. 951.07, F.S., as it pertained to jail rules violations only. The bill would make rule offenses punishable as a second degree misdemeanor. New language would be created as a new paragraph under s. 951.23, F.S..

Section 2.

The bill provides for the act to take effect upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of counties or municipalities to raise revenue.

STORAGE NAME: h3527.cor

DATE: March 5, 1998

PAGE 9

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

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