

**STORAGE NAME:** h3791s1.cor

**DATE:** April 14, 1998

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

**BILL #:** CS/HB 3791

**RELATING TO:** Criminal Justice

**SPONSOR(S):** Committee on Corrections and Representative Reddick

**COMPANION BILL(S):** SB 1858

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

- (1) CORRECTIONS YEAS 7 NAYS 0
  - (2) CRIME & PUNISHMENT
  - (3) GOVERNMENTAL RULES & REGULATIONS
  - (4) CRIMINAL JUSTICE APPROPRIATIONS
  - (5)
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**I. SUMMARY:**

CS/HB 3791 authorizes a study for FY 1999-2000 to evaluate, investigate and analyze the feasibility of implementing a program such as the state of Arizona's Proposition 200. The bill:

- authorizes the Parole Commission, with assistance from a minimum of three academic researchers in the criminal justice field, to conduct the study;
- requires recidivism, reimbursement efforts, and potential cost savings to be addressed in the study; and
- requires the findings and recommendations to be submitted to the President of the Senate and the Speaker of the House of Representatives by January 1, 2000.

The bill may have a fiscal impact on the Parole Commission to conduct the study. This additional workload and potential fiscal impact would not be experienced until Fiscal Year 1999-2000.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

**Laws Governing Drug Offenses and Drug Offender Population**

Section 893.13, F.S., specifies that it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance.

The statute prohibits any person to sell, manufacture, or deliver, or possess a controlled substance with intent to sell, manufacture, or deliver, a controlled substance in specific locations. The list of controlled substances is extensive.

Section 893.135, F.S., defines trafficking and the conspiracy to engage in trafficking. Mandatory sentences and the suspension or reduction of sentences are authorized in this section.

Of the total inmate population of 64, 713 on June 30, 1997, there were 10,332 drug offenders, which comprised 16% of the total inmate population. A breakdown by drug offenses is as follows:

**Drug Offenders in the Inmate Population  
On June 30, 1997**

<b>Drug Offenders (Number)</b>	<b>Percent of Total Population</b>
Sale/Purchase/ Manufacturing ( 6,073)	9.4%
Trafficking (2,092)	3.2%
Possession/Other (2,167)	3.4%
<b>Total (10, 332)</b>	<b>16%</b>

Drug offense admissions for the fiscal year comprised 22.5% of the total inmate admissions. There were 4,954 drug offenders admitted during the 1996-97 fiscal year. Most of them (55.9%) had prior Florida prison commitments. For the seventh consecutive year, admissions for drug offenses continue to decline.

The typical new drug admission was for the conviction of the sale or manufacture of drugs which comprised 13.30% of the total admissions for the fiscal year.

The Criminal Justice Estimating Conference held in October, 1997 documented the trend that admissions to prison for trafficking and possession drugs showed no significant changes since 1994. However, the prison admissions for the purchase and sale of drugs experienced a slight increase from 1994 through the last quarter of 1997.

**TOTAL DRUG ADMISSIONS  
(FY 96-97)**

<b>Type of Drug Offense (Number)</b>	<b>Percent of Total Drug Admissions</b>
Trafficking ( 721)	14.60%
Sale/Purchase/ Manufacture (2,927)	59.00%
Possession (1,306)	26.40%
<b>Total</b> (4,954)	100%

In FY 96/97, 23,866 inmates were released from Florida's prisons. A total of 6,056 were drug offenders which comprised 25.4% of the total number of releases. Releases for drug offenses are also declining.

**TOTAL DRUG RELEASES  
(FY 96-97)**

<b>Type of Drug Offense (Number)</b>	<b>Percent of Total Drug Releases</b>
Trafficking ( 691)	11.4%
Sale/Purchase/ Manufacture (3,723)	61.5%
Possession (1,642)	27.1%
<b>Total</b> (6,056)	100%

The average time-served for all offenders released in FY 96/97 was 36.0 months or 65.9% of their court-imposed sentence while drug offenders served an average number of 29.4 months or 66.5% of their court imposed sentence.

**Arizona 's Proposition 200**

In the November 1996 general election, Arizona voters enacted, by initiative, Proposition 200 entitled the "Drug Medicalization, Prevention and Control Act of 1996". The proposition became law on December 6, 1996 upon proclamation by the Governor. The purpose and intent of the initiative was to free space in prisons to provide room for violent offenders and to expand a pilot drug intervention program which diverts drug offenders. The initiative expanded the drug treatment, education, and counseling programs available to drug offenders placed on probation.

The proposition added a new section in statute providing for probation for persons convicted of certain drug offenses. Under this section defendants guilty of their first or second offense of personal possession or use of any controlled substance are eligible for probation if they have not committed a violent crime. Probation is required to include appropriate drug treatment and education which is to be paid for by the defendant, if financially able. Under this section, violation of probation could result in new conditions (other than incarceration for first time offenders) being added to the terms of probation.

Proposition 200 requires that certain persons who are convicted of certain drug offenses be sentenced as follows:

1. persons who commit violent crimes while under the influence of drugs shall serve 100% of their sentences, without eligibility for parole.
  
2. persons who have been convicted of personal possession or use of a controlled sub  
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3. persons who are convicted of personal possession or use of a controlled substance after the proposition passed shall only be eligible for probation. A person on probation is required to participate in a drug treatment or education program.

In recent years, an increase in drug offense commitments to the Department of Corrections was noted. Reports from the Department of Public Safety indicate that statewide adult arrests for drug trafficking increased by 86.4 percent between 1988 and 1994. There was a 129.9 percent increase in imprisoned drug offenders over the last seven fiscal years, from 2,038 on June 30, 1989 to 4,686 on June 30, 1996. As of December, 1997, there were 5,079 imprisoned drug offenders. However, the majority were for drug dealing offenses.

Last year, the Department of Corrections only released 38 inmates who were sentenced under Proposition 200 for the crimes of drug possession or usage. Of the 38 inmates released, at last count 28 were still on active supervision. One was returned to custody after leaving a residential program without permission. Warrants written on the other offenders were primarily for absconding supervision.

The Arizona Department of Corrections reports an increase in the number of offenders admitted to prison as probation and parole violators. The number of revoked probationers sent to prison increased from 2,343 in 1992 to 3,627 in 1995, a 54.8 percent increase. Likewise, the number of post-prison release violators returned to custody rose by 64.2 percent between 1993 and 1995, from 1,230 to 2,020.

**B. EFFECT OF PROPOSED CHANGES:**

The committee substitute directs the Parole Commission, with the assistance from a minimum of three academic researchers in the criminal justice field to conduct a study for the purpose of evaluating, investigating and analyzing the feasibility of implementing a program such as the state of Arizona's Proposition 200.

The committee substitute provides for specific issues of study to include recidivism, reimbursement efforts, and potential cost savings to the state by the release of certain drug offenders from the correctional institutions.

The committee substitute, additionally, requires the findings and recommendations to be submitted to the President of the Senate and to the Speaker of the House of Representatives.

This committee substitute will be effective upon becoming law.

**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?

No.

(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?

N/A

(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:

None.

E. SECTION-BY-SECTION RESEARCH:

None.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

See Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

4. Total Revenues and Expenditures:

See Fiscal Comments.

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:

In FY 99-00, the Parole Commission is authorized to conduct a study to evaluate, investigate and analyze the feasibility of implementing a program such as the state of Arizona's Proposition 200. A minimum of three academic researchers from the criminal justice field are authorized to assist the Parole Commission. Additional appropriations for expenses incurred for the study in FY 99-00 by the Parole Commission may be necessary to carry out the provision in this bill.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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.

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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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The original bill established a conditional drug offender release program and created a citizens' advisory committee. CS/HB 3791 removed all language in the bill and replaced it with language to authorize a study to be conducted to evaluate, investigate and analyze the feasibility of implementing a program such as the state of Arizona's Proposition 200.

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

Prepared by:

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