

By Senator Klein

28-1267-99

1                                   A bill to be entitled  
2           An act relating to correctional work programs;  
3           amending s. 944.801, F.S.; requiring that the  
4           Department of Corrections periodically evaluate  
5           its vocational education programs; requiring  
6           the department to develop a plan to improve its  
7           educational and vocational classes; prohibiting  
8           the department from assigning an inmate to  
9           certain correctional work programs unless the  
10          inmate has a high school diploma or a general  
11          educational development certificate; amending  
12          s. 946.002, F.S.; providing requirements for  
13          assigning inmates to correctional work  
14          programs; providing additional requirements for  
15          reimbursement by inmates to the state for the  
16          costs of incarceration; requiring that such  
17          reimbursement is secondary in priority to  
18          court-ordered restitution or child support;  
19          amending s. 946.006, F.S.; requiring that the  
20          Department of Corrections deduct a certain  
21          amount from the wages of inmates who are  
22          employed in correctional work programs;  
23          providing certain limitations; amending s.  
24          946.0061, F.S.; conforming a cross-reference to  
25          changes made by the act; amending s. 946.008,  
26          F.S., relating to the financing of correctional  
27          work programs; deleting obsolete provisions;  
28          amending s. 946.511, F.S.; revising the order  
29          of priority for assigning inmates to  
30          correctional work programs; amending s.  
31          946.520, F.S.; revising requirements for

1            assigning inmates to a correctional work  
2            program operated by a private business;  
3            providing an effective date.

4  
5 Be It Enacted by the Legislature of the State of Florida:

6  
7            Section 1. Section 944.801, Florida Statutes, is  
8 amended to read:

9            944.801 Education for state prisoners.--

10            (1) There is hereby established under the Department  
11 of Corrections a Correctional Education Program which shall be  
12 composed of the educational facilities and services of all  
13 institutions and facilities housing inmates operated by the  
14 Department of Corrections and shall be supervised by the  
15 Department of Corrections.

16            (2) The Department of Corrections is vested with the  
17 authority and responsibility to manage and operate the  
18 Correctional Education Program as provided by law.

19            (3) The responsibilities of the Correctional Education  
20 Program shall be to:

21            (a) Develop guidelines for collecting  
22 education-related information during the inmate reception  
23 process and for disseminating such information to the  
24 classification staff of the Department of Corrections. The  
25 information collected shall include the inmate's areas of  
26 educational or vocational interest, vocational skills, and  
27 level of education.

28            (b) In cooperation with the Department of Education,  
29 pursuant to s. 229.565, monitor and assess all inmate  
30 education program services and report the results of such  
31 evaluation in the annual report of activities.

1           (c) In cooperation with the Department of Education,  
2 pursuant to s. 229.8075, develop complete and reliable  
3 statistics on the educational histories, the city/intracity  
4 area and school district where the inmate was domiciled prior  
5 to incarceration, the participation in state educational and  
6 training programs, and the occupations of inmates confined to  
7 state correctional facilities. The compiled statistics shall  
8 be summarized and analyzed in the annual report of  
9 correctional educational activities required by paragraph (f).

10           (d) Approve educational programs of the appropriate  
11 levels and types in the correctional institutions and develop  
12 procedures for the admission of inmate students thereto.

13           (e) Enter into agreements with public or private  
14 school districts, entities, community colleges, junior  
15 colleges, colleges, or universities as may be deemed  
16 appropriate for the purpose of carrying out its duties and  
17 responsibilities and ensure that agreements require minimum  
18 performance standards and standards for measurable objectives,  
19 in accordance with established Department of Education  
20 standards.

21           (f) Report annual activities to the Secretary of  
22 Corrections, the Commissioner of Education, the Governor, and  
23 the Legislature.

24           (g) Develop and maintain complete and reliable  
25 statistics on the number of general educational development  
26 (GED) certificates and vocational certificates issued by each  
27 institution in each skill area, the change in inmate literacy  
28 levels, and the number of inmate admissions to and withdrawals  
29 from education courses. The compiled statistics shall be  
30 summarized and analyzed in the annual report of correctional  
31 education activities required by paragraph (f)~~(e)~~.

1           (h) Develop a written procedure for selecting programs  
2 to add to or delete from the vocational curriculum. The  
3 procedure shall include labor market analyses which  
4 demonstrate the projected demand for certain occupations and  
5 the projected supply of potential employees. In conducting  
6 these analyses, the department shall evaluate the feasibility  
7 of adding vocational education programs which have been  
8 identified by the Department of Labor and Employment Security  
9 or a regional coordinating council as being in undersupply in  
10 this state. The department must ensure that it periodically  
11 reevaluates the vocational education programs that are offered  
12 in major institutions. The department must, as part of its  
13 periodic reevaluation and analyses, determine which vocational  
14 educational programs are most likely to directly relate to and  
15 provide valuable skills that would assist inmates who could  
16 later be assigned to a correctional work program that is  
17 operated as a Prison Industry Enhancement Program.

18           (i) Ensure that every inmate who has 2 years or more  
19 remaining to serve on his or her sentence at the time that he  
20 or she is received at an institution and who lacks basic and  
21 functional literacy skills as defined in s. 239.105 attends  
22 not fewer than 150 hours of sequential instruction in a  
23 correctional adult basic education program. The basic and  
24 functional literacy level of an inmate shall be determined by  
25 the average composite test score obtained on a test approved  
26 for this purpose by the State Board of Education.

27           1. Upon completion of the 150 hours of instruction,  
28 the inmate shall be retested and, if a composite test score of  
29 functional literacy is not attained, the department is  
30 authorized to require the inmate to remain in the  
31 instructional program.

1           2. Highest priority of inmate participation shall be  
2 focused on youthful offenders and those inmates nearing  
3 release from the correctional system.

4           3. An inmate shall be required to attend the 150 hours  
5 of adult basic education instruction unless such inmate:

6           a. Is serving a life sentence or is under sentence of  
7 death.

8           b. Is specifically exempted for security or health  
9 reasons.

10          c. Is housed at a community correctional center, road  
11 prison, work camp, or vocational center.

12          d. Attains a functional literacy level after  
13 attendance in fewer than 150 hours of adult basic education  
14 instruction.

15          e. Is unable to enter such instruction because of  
16 insufficient facilities, staff, or classroom capacity.

17          4. The Department of Corrections shall provide classes  
18 to accommodate those inmates assigned to correctional or  
19 public work programs after normal working hours.

20          5. If an inmate attends and actively participates in  
21 the 150 hours of instruction, the Department of Corrections  
22 may grant a one-time award of up to 6 additional days of  
23 incentive gain-time, which must be credited and applied as  
24 provided by law. Active participation means, at a minimum,  
25 that the inmate is attentive, responsive, cooperative, and  
26 completes assigned work.

27          (j) Recommend the award of additional incentive  
28 gain-time for inmates who receive a general educational  
29 development certificate or a vocational certificate.

30          (k) Ensure that all education staff are certified in  
31 accordance with the Department of Education standards.

1           (1) Develop goals and objectives relating to all  
2 phases of the correctional education program.

3  
4           The department shall develop a plan by December 1, 1999, that  
5 improves its effort to provide educational and vocational  
6 classes on a more frequent basis and at times that accommodate  
7 the increasing number of inmates who are given work  
8 assignments. This plan must be provided to the Commissioner of  
9 Education, the Governor, and the Legislature. The plan must  
10 include details as to how the department will implement the  
11 plan by July 1, 2000.

12           (4) Notwithstanding s. 120.81(3), all inmates under 22  
13 years of age who qualify for special educational services and  
14 programs pursuant to the Individuals with Disabilities  
15 Education Act, 20 U.S.C. ss. 1400 et seq., and who request a  
16 due process hearing as provided by that act shall be entitled  
17 to such hearing before the Division of Administrative  
18 Hearings. Administrative law judges shall not be required to  
19 travel to state or private correctional institutions and  
20 facilities in order to conduct these hearings.

21           (5) The Department of Corrections may not assign any  
22 inmate to a correctional work program that operates under the  
23 federally certified program called the Prison Industry  
24 Enhancement Program unless the inmate has completed and  
25 received, at a minimum, his or her high school diploma or  
26 general educational development certificate.

27           Section 2. Section 946.002, Florida Statutes, is  
28 amended to read:

29           946.002 Requirement of labor; priority for  
30 assignments; compensation; amount; crediting of account of  
31

1 prisoner; forfeiture; civil rights; prisoner not employee or  
2 entitled to compensation insurance benefits.--

3 (1)(a) The department shall require of every  
4 able-bodied prisoner imprisoned in any institution as many  
5 hours of faithful labor in each day and every day during his  
6 or her term of imprisonment as shall be prescribed by the  
7 rules of the department. Every able-bodied prisoner  
8 classified as medium custody or minimum custody who does not  
9 satisfactorily participate in any institutional work,  
10 academic, or vocational programs shall be required to perform  
11 work for such political subdivisions of the state as might  
12 have entered into agreement with the department pursuant to s.  
13 946.40.

14 (b) The department shall have as a continuous goal the  
15 reduction of inmate idleness in the prison system and shall  
16 incorporate this goal and that of maximizing the use of  
17 inmates while incarcerated in its strategic plan. A goal of  
18 the department shall be for all inmates, except those inmates  
19 who pose a serious security risk or who are unable to work, to  
20 work at least 40 hours a week. Until this goal can be  
21 accomplished, the department shall maximize the utilization of  
22 inmates within existing resources.

23 (2) The Department of Corrections shall establish  
24 criteria for the assignment of inmates to correctional work  
25 programs in major institutions. As part of its criteria, the  
26 department must require every inmate to first work in an  
27 unpaid, institutional work assignment before an inmate may be  
28 assigned to a work program that compensates an inmate for the  
29 work he or she performs. The department's criteria for work  
30 assignments must also require an inmate to first work in a  
31 work program that is leased or managed by the corporation that

1 is authorized under part II before an inmate may be assigned  
2 to a work program that operates as a Prison Industry  
3 Enhancement Program, whenever it is possible to do so.

4 (3)(2)(a) Each prisoner who is engaged in productive  
5 work in any state correctional institution, program, or  
6 facility under the jurisdiction of the department may receive  
7 for work performed such compensation as the department shall  
8 determine, except for compensation received by an inmate who  
9 works in a program that operates as a Prison Industry  
10 Enhancement Program. Such compensation shall be in accordance  
11 with a schedule based on quality and quantity of work  
12 performed and skill required for performance, and said  
13 compensation shall be credited to the account of the prisoner  
14 or the prisoner's family.

15 (b) Any monetary payments made directly to the  
16 prisoner shall be used in whole or in part to satisfy  
17 restitution ordered by a court of competent jurisdiction to  
18 the victim of the criminal act.

19 (c) It shall be the policy of the department to  
20 require inmates receiving compensation for work performed in  
21 community programs to reimburse the state for lodging, food,  
22 transportation, and other expenses incurred for sustaining the  
23 inmate. Reimbursement shall be according to rules adopted  
24 ~~promulgated~~ by the department, which shall provide that the  
25 inmate retain only a minimal amount of money for personal  
26 items and shall take into consideration compensation that may  
27 be allocated for the support of the inmate's family and for  
28 restitution for the victim of the crime committed. The amount  
29 of reimbursement to the state shall be a standard amount that  
30 most closely reflects the per diem average cost of  
31 incarceration that is annually determined by the department.



1 The amount will be automatically deducted from an inmate's  
2 payment or upon deposit into an inmate's bank account.

3 Reimbursement to the state for the cost of incarceration shall  
4 be secondary in priority to any court-ordered restitution or  
5 child support payments.

6 (4)~~(3)~~ Said compensation shall be paid from the  
7 Department of Corrections Correctional Work Program Trust  
8 Fund. Whenever any price is fixed on any article, material,  
9 supply, or service, to be produced, manufactured, supplied, or  
10 performed in connection with the work program of the  
11 department, the compensation paid to the prisoners shall be  
12 included as an item of cost in the final price.

13 (5)~~(4)~~(a) When any prisoner shall willfully violate  
14 the terms of his or her employment or the rules and  
15 regulations of the department, the department may in its  
16 discretion determine what portion of all moneys earned by the  
17 prisoner shall be forfeited by said prisoner and such  
18 forfeiture shall be redeposited to the Department of  
19 Corrections Correctional Work Program Trust Fund.

20 (b) When any prisoner escapes, the department shall  
21 determine what portion of the prisoner's earnings shall be  
22 forfeited, and such forfeiture shall be deposited in the State  
23 Treasury in the Inmate Welfare Fund of the department.

24 (6)~~(5)~~ Nothing in this section is intended to restore,  
25 in whole or in part, the civil rights of any prisoner. No  
26 prisoner compensated under this section shall be considered as  
27 an employee of the state or the department, nor shall such  
28 prisoner come within any other provision of the Workers'  
29 Compensation Act.

30 Section 3. Present subsections (4) and (5) of section  
31 946.006, Florida Statutes, are redesignated as subsections (5)

1 and (6) respectively, and a new subsection (4) is added to  
2 that section, to read:

3           946.006 Correctional work programs.--  
4           (4) For inmates who work for a private sector business  
5 that operates pursuant to a contract as authorized under  
6 subsection (3), the department shall deduct a standard amount  
7 from inmates wages which reflects the standard average per  
8 diem cost of incarceration that is determined by the  
9 department on an annual basis. This deduction amount is only  
10 limited by the maximum percentage amount that is delineated by  
11 the federal guidelines that limit the amount the state may  
12 deduct for the cost of incarceration.

13           Section 4. Section 946.0061, Florida Statutes, is  
14 amended to read:

15           946.0061 Application.--Section 946.006(5) does  
16 ~~946.006(4) shall~~ not apply to the correctional work programs  
17 operated under part II of this chapter.

18           Section 5. Section 946.008, Florida Statutes, is  
19 amended to read:

20           946.008 Financing of correctional work programs.--

21           (1) The Department of Corrections shall explore new  
22 financing arrangements, including the involvement of private  
23 industry and expertise within or outside the institutions, to  
24 the maximum extent allowed by law. Nothing in this section  
25 shall be construed or interpreted as authorizing or permitting  
26 the department to incur a state debt of any kind or nature as  
27 contemplated by the State Constitution in relation to such  
28 financing arrangements.

29           (2) Except as otherwise provided by law, funds  
30 appropriated to the Correctional Work Program Trust Fund shall  
31 be utilized for the purpose of renovation of, addition to, or

1 construction of facilities or implementation of correctional  
2 work programs, including academic or vocational training  
3 designed to meet the needs of the selected industry programs  
4 at the various correctional institutions as authorized  
5 pursuant to s. 946.006. Such renovation, addition, or  
6 construction shall utilize inmate labor.

7 ~~(3) A one-time sum of \$500,000 shall be appropriated~~  
8 ~~from the Inmate Welfare Trust Fund to the Correctional Work~~  
9 ~~Program Trust Fund in fiscal year 1996-1997 to fund the~~  
10 ~~provisions of this section. This sum shall be repaid by the~~  
11 ~~department when the unencumbered balance in the Correctional~~  
12 ~~Work Program Trust Fund equals \$750,000 or more.~~

13 (3)~~(4)~~ The correctional work program shall be  
14 efficient and shall stress productive labor for all inmates  
15 physically able to engage in it.

16 Section 6. Section 946.511, Florida Statutes, is  
17 amended to read:

18 946.511 Provision of inmate labor to operate  
19 correctional work programs; priorities, policies, and  
20 procedures.--

21 (1) Inmates shall be evaluated and identified during  
22 the reception process to determine basic literacy, employment  
23 skills, academic skills, vocational skills, and remedial and  
24 rehabilitative needs. The evaluation shall prescribe  
25 education, work, and work-training for each inmate. Assignment  
26 to programs shall be based on the evaluation and the length of  
27 time the inmate will be in the custody of the department.  
28 Assignment to programs shall be reviewed every 6 months to  
29 ensure proper placement based on bed space availability.  
30 Assignment of inmates shall be governed by the following  
31 objectives and in the order of the following priorities:

1 (a) Inmates shall be first assigned to meet the needs  
2 of the work requirements of the Department of Corrections,  
3 including essential operational functions and  
4 revenue-generating contracts that do not compensate an inmate  
5 for the work performed before an inmate may be assigned to a  
6 program that compensates an inmate for work performed.

7 (b) Inmates shall be assigned to correctional  
8 education to obtain a general educational development  
9 certificate or a basic educational foundation to subsequently  
10 prepare to obtain a general educational development  
11 certificate if an inmate does not have his or her high school  
12 diploma.

13 (c) Inmates shall be assigned to a work program that  
14 is operated by the corporation before an inmate may be  
15 assigned to a work program that is operated by a private  
16 sector business, whenever it is feasible.

17 (d)~~(c)~~ Inmates shall be assigned to meet all other  
18 work requirements of the department, including remaining  
19 operational functions and nonrevenue-generating contracts.  
20

21 As used in this subsection, the term "revenue-generating  
22 contracts" includes contracts with the Department of  
23 Transportation, the corporation authorized to conduct the  
24 correctional work programs under part II, private sector  
25 businesses operating programs authorized under s. 946.006(3),  
26 and federal, state, or local governmental entities or  
27 subdivisions authorized under s. 944.10(7).

28 (2) The corporation shall establish policies and  
29 procedures relating to the use of inmates in its correctional  
30 work program, which shall be submitted to the department for  
31

1 approval. Any policies and procedures in effect on the  
2 effective date of this act do not require approval.

3 Section 7. Section 946.520, Florida Statutes, is  
4 amended to read:

5 946.520 Assignment of inmates by Department of  
6 Corrections.--

7 (1) The department shall exert its best efforts to  
8 assign inmates to the corporation, or the private sector  
9 business authorized under part I of this chapter, who have not  
10 less than 1 nor more than 5 years remaining before their  
11 tentative release dates. The department, however, may assign  
12 inmates to a private sector business only if each inmate has,  
13 at a minimum, his or her high school diploma or general  
14 educational development certificate in accordance with the  
15 requirements of s. 944.801. Any inmate assigned to work in a  
16 program that is operated by the corporation or the private  
17 business sector must first work in an assignment that meets  
18 the needs of the department for operational functions and  
19 revenue-generating contracts where an inmate is not  
20 compensated for his or her work performed in such an  
21 assignment. The department must first place an inmate in an  
22 assignment that compensates an inmate at a lower rate, such as  
23 a program that is operated by the corporation, before an  
24 inmate may be assigned to work in a program that is operated  
25 by a private sector business, whenever it is feasible to do  
26 so. ~~Beginning January 1, 1998,~~ The department shall maintain  
27 the assignment of at least 60 percent of inmates to all  
28 correctional work programs collectively to the corporation, or  
29 to the private sector business authorized under part I of this  
30 chapter, who have less than 10 years remaining before their  
31 tentative release dates. This 60-percent requirement does not

1 apply to any correctional work program, or private sector  
2 business authorized under part I of this chapter, within an  
3 institution for any year in which, as of January 1 of that  
4 year, the average years remaining before the tentative release  
5 date of all inmates assigned to that institution exceeds 12  
6 years.

7 (2) The department may not remove an inmate once  
8 assigned to the corporation or to the private sector business  
9 authorized under part I of this chapter, except upon request  
10 of or consent of such corporation or private sector business  
11 or for the purposes of population management, for inmate  
12 conduct that may subject the inmate to disciplinary  
13 confinement or loss of gain-time, or for security and safety  
14 concerns specifically set forth in writing to the corporation  
15 or private sector business.

16 Section 8. This act shall take effect upon becoming a  
17 law.

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20 SENATE SUMMARY

21 Revises various provisions governing the operation of  
22 educational programs and work programs by the Department  
23 of Corrections. Requires that the department evaluate its  
24 vocational education programs. Prohibits the department  
25 from assigning an inmate to certain correctional work  
26 programs unless the inmate has a high school diploma or a  
27 general educational development certificate. Provides  
28 that the reimbursement paid by inmates to the state for  
29 the costs of incarceration is secondary in priority to  
30 court-ordered restitution or child support. Revises the  
31 order of priority for assigning inmates to correctional  
work programs. (See bill for details.)