

By the Committee on Criminal Justice and Senator Brown-Waite

307-1870-00

1 A bill to be entitled
2 An act relating to health care of inmates in
3 the state correctional system; providing
4 legislative intent with respect to the
5 Correctional Managed Health Care Pilot Program;
6 creating the Correctional Managed Health Care
7 Oversight Board to oversee the pilot program;
8 providing for the membership of the board;
9 providing duties of the board; providing for
10 meetings of the board; requiring that the board
11 inspect facilities operated under the pilot
12 program and report to the Governor and
13 Legislature; providing for expiration of the
14 board; establishing the Correctional Managed
15 Health Care Pilot Program; specifying the
16 correctional facilities to be included in the
17 pilot program; requiring the Department of
18 Corrections to contract with a private health
19 care vendor for the purpose of providing health
20 care services; providing procedures under which
21 the private vendor may deviate from procedures
22 or protocols adopted by the department;
23 providing for a criminal history check of
24 individuals employed by or contracting with the
25 health care vendor; providing that sovereign
26 immunity does not apply to any vendor
27 performing services under the pilot program;
28 requiring that the vendor and any subcontractor
29 indemnify the state and the department against
30 any liability; requiring that the population of
31 inmates served under the pilot program be

1 similar to other inmates in the state
2 correctional system; exempting the facilities
3 under the pilot program from the direction of
4 the State of Florida Correctional Medical
5 Authority; providing for the prime vendor
6 pharmaceutical contract to be available to the
7 health care vendor operating the pilot program;
8 providing an effective date.

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Legislative intent; Correctional Managed
13 Health Care Oversight Board; Correctional Managed Health Care
14 Pilot Program.--

15 (1) It is the intent of the Legislature that the
16 delivery of inmate health care be accomplished in accordance
17 with the commonly accepted standards within the professional
18 health community at large; be provided at a level comparable
19 to a Medicaid-service level of care, enhanced to include
20 dental, mental health, and pharmacy programs that are at least
21 equivalent to the level of care provided by the Office of
22 Health Services of the Department of Corrections; and be
23 provided in the most cost-effective manner possible. It is
24 also the intent of the Legislature to reduce and control the
25 escalating costs of inmate health care by implementing, in a
26 pilot project, the managed health care approach described in
27 this section and specifically authorized in the 2000-2001
28 General Appropriations Act. In managing the contract for the
29 Correctional Managed Health Care Pilot Program contract, the
30 Department of Corrections shall safeguard the state's interest
31 in providing lawfully adequate health care to inmates.

1 (2) Upon the award of a contract, the Correctional
2 Managed Health Care Oversight Board is created for the purpose
3 of overseeing the implementation of the Correctional Managed
4 Health Care Pilot Program. The board shall consist of seven
5 members appointed by the Governor, one of whom must be
6 employed by the Agency for Health Care Administration, and one
7 of whom must be a certified public accountant who holds a
8 valid license to practice in this state. The remaining members
9 must be medical professionals and must include a physician, a
10 psychiatrist, a dentist, and a nurse, each of whom must hold a
11 valid license to practice their profession in this state. The
12 Governor shall designate one member to serve as the
13 chairperson. An employee of the Department of Corrections may
14 not be appointed to the board. Five members of the board shall
15 constitute a quorum. The members shall be appointed to terms
16 of 2 years each. A vacancy shall be filled in the same manner
17 as the original appointment and shall be for the remainder of
18 the unexpired term.

19 (a) The purpose of the board is to assist in the
20 delivery of health care services for inmates in the Department
21 of Corrections by advising the Governor and the Legislature on
22 the status of the health care delivery system of the
23 Department of Corrections at the facilities participating in
24 the Correctional Managed Health Care Pilot Program; by
25 evaluating the provision of primary, convalescent, dental, and
26 mental health care and the management of costs consistent with
27 lawfully adequate care; and by assuring that lawfully adequate
28 standards of primary, convalescent, dental, and mental health
29 care for inmates are maintained. Deficiencies found by the
30 board to be life-threatening or otherwise serious shall be
31 immediately reported to the Secretary of Corrections and the

1 private health care vendor performing the services under the
2 Correctional Managed Health Care Pilot Program. The private
3 health care vendor shall take immediate action to correct
4 life-threatening or otherwise serious deficiencies identified
5 by the board and, within 3 calendar days, file a written
6 corrective action plan with the Secretary of Corrections, the
7 department's contract manager, and the board which indicates
8 the actions that will be taken to address the deficiencies.

9 (b) The board members shall not be compensated for
10 their services on the board, but are entitled to reimbursement
11 by the Department of Corrections for travel expenses, pursuant
12 to section 112.061, Florida Statutes, from funds appropriated
13 to the Department of Corrections. The department shall provide
14 necessary staff support to the board to enable the board to
15 fulfill its obligations.

16 (c) The board shall meet at least once each quarter,
17 or often as necessary, for the purpose of carrying out its
18 responsibilities and evaluating the pilot program. The board
19 may adopt by-laws necessary for the board's operation.

20 (d) The board shall inspect the facilities covered
21 under the pilot program at least once each year and shall
22 submit a report to the Governor, the President of the Senate,
23 and the Speaker of the House within 60 days after the
24 inspection.

25 (e) The board shall address and resolve any request
26 for changes submitted by the private health care vendor under
27 paragraph (3)(b).

28 (f) An affirmative vote of the majority of the quorum
29 is necessary for the board to take any action.

30 (g) The board shall exist until all objectives are
31 achieved, but not later than January 31, 2004.

1 (3)(a) The Correctional Managed Health Care Pilot
2 Program is established for the purpose of providing inmate
3 health care, including primary, convalescent, dental, and
4 mental health care, to inmates housed by the Department of
5 Corrections at the prisons located in the region designated by
6 the department as Region IV on March 1, 2000. The pilot
7 program shall:

8 1. Commence with a contract awarded to a private
9 health care vendor by the Department of Corrections, at the
10 department's discretion. The private health care vendor shall
11 provide services to inmates, except inmates housed in
12 institutions authorized under chapter 957, Florida Statutes,
13 at a level that is comparable to the level of care provided
14 under Medicaid. In addition, services shall be enhanced to
15 include dental, mental health, and pharmacy programs that are
16 at least equivalent to the level of care provided by the
17 Office of Health Services of the Department of Corrections.
18 The contract for the pilot project shall be terminated no
19 later than December 31, 2003.

20 2. Maintain lawfully adequate levels of inmate health
21 care and provide access to health care while achieving
22 substantial cost savings.

23 3. Adhere to the health care procedures, health care
24 plans, health service bulletins, and treatment protocols
25 relating to the provision of inmate health care services
26 adopted by the Department of Corrections.

27 (b) If there is a need to deviate from the procedures,
28 plans, bulletins, or protocols adopted by the Department of
29 Corrections, the private health care vendor shall file a
30 request for change with the chairperson of the Correctional
31 Managed Health Care Oversight Board which states the reasons

1 for the request for change and the alternative protocol the
2 pilot program would implement, if approved, and shall submit
3 an affidavit from a local health care provider which attests
4 to the fact that the alternative protocol is commonly accepted
5 within the professional health community at large. The
6 chairperson of the Correctional Managed Health Care Oversight
7 Board shall promptly assemble a quorum to review the request
8 for change and submit a recommendation to the Secretary of
9 Corrections to approve or deny the request. All documentation
10 considered by the board shall be provided to the Secretary of
11 Corrections for a final decision.

12 (c) The private health care vendor shall provide the
13 names, addresses, and social security numbers and, upon
14 request, a complete set of fingerprints taken by an authorized
15 law enforcement agency, of all individuals who will be
16 employed by, or contracting with, the vendor within the
17 state's correctional system for the purpose of a background
18 check. The Department of Law Enforcement may accept such
19 fingerprints for the purpose of conducting a statewide and
20 national criminal history check and, to the extent provided by
21 law, to exchange state, multistate, and federal criminal
22 history records with the Department of Corrections.

23 (d) The Department of Corrections shall provide
24 training to the private health care vendor, any
25 subcontractors, and their respective employees with regard to
26 security requirements to be maintained by the vendor,
27 subcontractor, or employees while working within the state's
28 correctional system.

29 (4) Section 768.28(10)(a), Florida Statutes, does not
30 apply to any vendor performing services under the Correctional
31 Managed Health Care Pilot Program. The vendor entering into a

1 contract under this section is liable in tort with respect to
2 the care of inmates under the Correctional Managed Health Care
3 Pilot Program and for any breach of contract. Sovereign
4 immunity may not be raised by a vendor, subcontractor, or
5 employee of the vendor or subcontractor, or by the insurer of
6 the vendor, subcontractor, or employee on their behalf, as a
7 defense in any action arising out of the performance of any
8 service under the terms of any contract entered under this
9 section or as a defense in tort, or any other application,
10 with respect to the care of inmates and for any breach of
11 contract.

12 (5) Each primary vendor or subcontractor entering into
13 an agreement under this section shall defend and indemnify the
14 state and the Department of Corrections, including their
15 officials, employees and agents, against any claim, loss,
16 damage, cost, charge, or expense arising out of any act,
17 action, neglect, or omission by the vendor or its agents or
18 employees during the performance of the contract, whether
19 direct or indirect, including, but not limited to, any tort or
20 civil rights liability. Proof of satisfactory insurance is
21 required in the request for proposal and resulting contract,
22 if any is awarded. The vendor shall provide a performance bond
23 in an amount to be specified in the request for proposal.

24 (6)(a) The population of inmates housed in
25 correctional facilities within which the Correctional Managed
26 Health Care Pilot Program is operated shall be of a
27 substantially similar composition as those inmates who are
28 housed in similar facilities in the remainder of the state
29 correctional system with respect to their overall health, age,
30 mental health, and dental requirements.

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1 (b) Section 945.603, Florida Statutes, does not apply
2 to the correctional facilities within which the pilot program
3 is operated and such facilities are not subject to direction
4 by the State of Florida Correctional Medical Authority.

5 (7) The prime vendor pharmaceutical contract of the
6 state shall be available to the private health care vendor
7 selected to operate the Correctional Managed Health Care Pilot
8 Program. However, the private health care vendor is not
9 required to use the state's prime vendor pharmaceutical
10 contract.

11 Section 2. This act shall take effect upon becoming a
12 law.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 2108

17 The CS defines a pilot project, authorized by proviso language
18 in the Senate Budget 2000-2001, which would allow the
19 Department of Corrections to contract with a private health
20 care vendor to deliver inmate health services in one Region
21 for a specified period of time. The CS creates an oversight
22 board to report to the Legislature and Governor on the
23 implementation and success of the pilot program.
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