

**STORAGE NAME:** h0229s1a.cor

**DATE:** February 25, 2000

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
CORRECTIONS  
ANALYSIS**

**BILL #:** CS/CS/HB 229

**RELATING TO:** Department of Corrections

**SPONSOR(S):** Committee on Governmental Operations and Representatives Crady, Fasano, Kilmer and others

**TIED BILL(S):** SB2212

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

- (1) GOVERNMENTAL OPERATIONS YEAS 7 NAYS 0
  - (2) CORRECTIONS
  - (3) GENERAL APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

The bill requires the department to compile and make available to the public information concerning individuals under community supervision by the Department. It requires the department to furnish radios and cell phone to correctional probation officers as the funds of the department permit. The bill also requires all probation officers who carry firearms to have their firearms issued by the department. Effective July 1, 2002 all probation officers wearing firearms shall be qualified as required by the Criminal Justice Standards and Training Commission.

The bill requires the department to submit a technology plan to the Legislature no later than March 1, 2001 which identifies the computer needs of probation officers.

This bill creates the "Keith Ward Act" and adds correctional probation officers, the supervisors of such officers, and probation and parole circuit and deputy circuit administrators to the Special Risk Class of the Florida Retirement System (FRS), effective January 1, 2001.

The bill clarifies that when the department collects payments from inmates, the funds must first be applied toward satisfying victim restitution.

The bill prohibits individuals who have been convicted or had adjudication withheld for certain crimes from being placed on probation. It also generally requires imposition of an incarcerative sentence for offenders on community control if the offender is found to have committed a substantially similar subsequent offense.

The bill imposes additional conditions of probation or community control, and provides for electronic monitoring at the discretion of the court.

It treats offenders on community control who commit a substantially similar offense like in two paragraphs above.

The bill requires the department to electronic monitoring of offenders through both global-positioning-system devices and radio-frequency monitoring.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- 1. Less Government                      Yes     No     N/A
- 2. Lower Taxes                              Yes     No     N/A
- 3. Individual Freedom                      Yes     No     N/A
- 4. Personal Responsibility                      Yes     No     N/A
- 5. Family Empowerment                      Yes     No     N/A

**Less Government:**                      The bill does not support the principle of less government because sections 1, 4, 9, 10, 11, 12 and 14 increase the the duties of the Department of Corrections. Sections 3 and 4 require additional training of existing personnel and require the filing of a report not currently required.

**Individual Freedom:**                      Individuals on probation and community control will be subject to additional conditions of probation or community control.

**Personal Responsibility**                      Correctional Probation Officers will not bear the increased costs which will be incurred as a result of this special risk classification. The system will be supported by funds appropriated by the Legislature to the Department of Corrections.

The bill will allow correctional probation officers and their supervisors to retire early without economic penalty.

B. PRESENT SITUATION:

Section 1.    There is no current comprehensive system of information concerning offenders under community supervision by the department which is easily accessible to the public.

Section 2.    The communications equipment available to correctional probation officers, including radios and cellular telephones, is limited.

Section 3.    Currently, probation officers who carry firearms are allowed to furnish their own firearms and are not required to be qualified to carry a firearm by the Criminal Justice Standards and Training Commission.

Section 4.    The information technology plan of the department is not comprehensive enough to address the needs of the department and make future plans for technology improvements.

Sections 5, 6 and 7. The Florida Retirement System (FRS) is a statewide, defined benefit pension plan covering the employees of state, county, municipal and special district units of government. The FRS has five classes of membership: Regular Class, Special Risk Class, Special Risk Administrative Support Class, Elected State and County Officer's Class, and Senior Management Service Class.

The Special Risk Class criteria currently addresses only the need of a group of employees to retire earlier than other employees due to the adverse effects of aging upon their ability to perform their job duties. The criteria do not address a desire to reward employees with hazardous jobs. The Legislature created the Special Risk Class to prevent declining performance, not to compensate those who perform hazardous duties. It should be noted that all FRS members, whether Special Risk Class or Regular Class, are entitled to the same in-line-of-duty disability and death benefits.

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According to the Department of Corrections, there are currently 3,638 correctional probation officers. These staff currently belong to the Regular Class. Members of the Regular Class are subject to a normal retirement age of 62 or upon completion of 30 years of service. Regular Class members accrue retirement credit at a rate of 1.6 to 1.68% of the average final compensation for each year of service. To fund these benefits, employers must contribute an amount equal to 9.21% of each employee's pay (effective July 1, 1999).

Section 121.0515, F.S. specifies the eligibility requirements for membership in the Special Risk Class. Membership is restricted by statute and is currently composed of law enforcement personnel, firefighters and correctional officer personnel that have sworn responsibilities in the apprehension, detention, detection and surveillance of criminal law violators. The class also includes supervisors of such employees.

Members of the Special Risk Class achieve normal retirement at the age of 55 or after 25 years of service. Special Risk Class members also accrue retirement credits at the higher rate of 3% of average final compensation for each year of service. These advantages are intended to help offset the shorter careers served by special risk employees. To fund Special Risk Class retirement benefits, employers must contribute 20.22% of each employee's pay.

In establishing the Special Risk Class, the Legislature recognized that an essential function of some positions is the performance of physically demanding work, or work that requires extraordinary agility and mental acuity. In these positions, the normal aging process may leave employees unable to continue their duties without risking the health and safety of the public, their coworkers, or themselves. Section 121.0515(1), F.S. provides the Legislature's intent that the Special Risk Class be a mechanism which would allow employees at such a "special risk" to retire early without financial penalties.

Prior to October 1, 1978, correctional probation officers were included in the Special Risk Class. This group of employees was removed, effective October 1, 1978, because they failed to meet the revised certification requirements in s. 943.1395, F.S., and their primary duties did not constitute custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported.

Section 8. At the current time, there is no definitive . . .

#### C. EFFECT OF PROPOSED CHANGES:

This bill adds correctional probation officers, the supervisors of such officers, and probation and parole circuit and deputy circuit administrators to the Special Risk Class of the Florida Retirement System (FRS), effective January 1, 2001. The correctional probation officers must meet certification criteria currently required under s. 943.1395, F.S.

As mentioned by the Committee on Governmental Operations, correctional probation officers, the supervisors of such officers, and probation and parole circuit and deputy circuit administrators will receive an 87.5% improvement in their accrual value for service after January 1, 2001; the difference in the accrual value of the Special Risk Class benefit over the Regular Class benefit. The supervisory positions included in this bill are part of the chain of command of this group of probation officers which is consistent with the chain of command currently recognized in the Special Risk Class for law enforcement officers, firefighters, and correctional officers and their supervisors.

Expanding the Special Risk Class to include correctional probation officers and certain of their supervisors and administrators will increase Special Risk Class coverage requests from other groups who consider their positions dangerous, but whose positions also do not comply with the current Special Risk Class legislative intent and membership criteria.

The primary job duties and responsibilities of a correctional probation officer as stated in this bill must be "supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within institutions of the community; or the member must be the supervisor of a member or members who have such responsibilities." Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included; however, probation and parole circuit and deputy circuit administrators will participate in the Special Risk Class. If correctional probation officers are granted Special Risk Class membership, expectations of such membership for other professionals working within institutions who provide inmate supervision and counseling (classroom instructors, psychiatrists, psychologists, etc.) but who are not currently eligible for Special Risk Class membership will be created.

Correctional probation officers are required to interact with probationers, parolees, or community controllees outside of a controlled institutional setting. Presumably, the inherent dangers in this aspect of their job duties is one of the primary motivations for this proposed legislation. The curricula and the total hour requirements for certification of correctional probation officers is less stringent than that of a law enforcement officer. Currently law enforcement officers and correction officers must successfully complete a more stringent education certification requirement.

This bill provides only prospective Special Risk Class coverage, effective January 1, 2001. Service between October 1, 1978, and December 31, 2000, will not count towards a special risk normal retirement date.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Creates a short title, the "Keith Ward Act."

**Section 2.** Amends s. 121.021(15)(b), F.S., providing, effective January 1, 2001, the term "special risk member" also includes any member who is employed as a correctional probation officer and meets the special criteria set forth in s. 121.0515(2)(e), F.S.

**Section 3.** Amends s. 121.0515(2), F.S., establishes criteria for correctional probation officers to be included as Special Risk Class members of the FRS; requires that such officers be certified, or be required to be certified, in compliance with s. 943.1395, F.S., and have primary duties and responsibilities including supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within institutions of the community, or by the supervisor of such an officer; and provides for inclusion of probation and parole circuit and deputy circuit administrators in the Special Risk Class, but excludes administrative support personnel.

**Section 4.** Provides a legislative determination and declaration that the provisions of this act fulfill an important state interest.

**Section 5.** Provides an effective date of January 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The cost to the Department of Corrections as a result of this bill will be 11.01% of the salaries of the affected employees.<sup>1</sup> This is the difference between the current Regular Class contribution rate of 9.21% and the Special Risk Class rate of 20.22%.

**Recurring Effects: FY 00-01(6mo.) \$ 6,888,138  
FY 01-02(12mo.) \$14,189,563  
FY 02-03(12mo.) \$14,615,250**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

No local government revenues will be generated because of the passage of this legislation.

2. Expenditures:

No expenditures will be required on behalf of local governments because of the passage of this legislation.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

If the demographics of the group of affected members differ significantly from those of the current class members, this bill could have a fiscal impact on the FRS Trust Fund, and could possibly increase or decrease the contribution rates of the Regular Class and the

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<sup>1</sup>The Department of Corrections reports that currently there are 3,638 employees that would be affected. In its reorganization, the Department of Corrections has revised its classification system. The department plans to transfer 110 positions to community corrections to assist in reducing supervision caseloads. The department has also discontinued the certification requirement for classification officers in the prison. (*Office of Program Policy Analysis and Government Accountability, Interim Status Report: Department of Corrections Reorganization, Report No. 99-17, December 1999.*) The effects can be expected to fluctuate as the number of specified employees in the department changes.

Special Risk Class of membership. A census of the group after the positions are specified, and possibly a special study, would be required to determine the impact of the bill.

There are no local government positions that qualify for the Special Risk Class under this bill. Therefore, it appears the state Department of Corrections is the only employer with affected positions. The Department of Corrections will pay an additional 11.01% (based upon current contribution rates) of the salaries of its 3,638 affected employees. This is the difference between the retirement contribution rate for Regular Class members of 9.21% and the recommended rate of 20.22% for Special Risk Class members.

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 or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

It is not anticipated that the Division of Retirement of the Department of Management Services or the Department of Corrections, will need additional rulemaking authority to implement this legislation.

C. OTHER COMMENTS:

In its 1998 Annual Report, the Florida Corrections Commission discusses this issue in detail. The commission recommends that correctional probation officers assigned to major institutions be reclassified as "correctional classification officers" and that only these staff become eligible for Special Risk Class status, not all correctional probation officers. The commission based its recommendation on the rationale that granting all correctional probation officers Special Risk Class status may create an expectation that other professional staff working in institutions who provide inmate supervision and counseling, such as medical staff, psychologist, and teachers, who currently are not, but should be under the Special Risk Class status.

Other groups that have sought Special Risk Class Coverage in the past include paramedics and emergency medical technicians, health care providers in the prison setting, assistant state attorneys, certain investigators who are not law enforcement officers and forensic unit workers. Special Risk

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coverage was recently extended to paramedics and emergency medical technicians. (See s. 23 of Chapter 99-392, LOF).

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Governmental Operations, at its February 8, 2000, committee meeting, adopted a technical amendment to correct a drafting error by reinserting one word that was inadvertently deleted from current statutory language when the bill was drafted. This action does not require a revision to the body of the bill analysis.

A technical amendment should be offered to correct a cross-reference error to s. 121.0515, Florida Statutes.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

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AS REVISED BY THE COMMITTEE ON CORRECTIONS:

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