

By the Committee on Criminal Justice and Senator Thomas

307-2109-00

1                                   A bill to be entitled  
 2           An act relating to elderly offenders; amending  
 3           s. 944.02, F.S.; providing a definition of  
 4           "elderly offender"; creating s. 944.804, F.S.;  
 5           providing legislative findings; requiring the  
 6           Department of Corrections to establish and  
 7           operate an exclusively geriatric facility for  
 8           elderly offenders at the current River Junction  
 9           Correctional Institution site; requiring the  
 10          department to develop rules specifying  
 11          eligibility for the facility; providing  
 12          specific legislative intent for implementation  
 13          of rules; requiring a study; creating s.  
 14          944.8041, F.S.; requiring annual review and  
 15          reports by the Florida Corrections Commission  
 16          and the Correctional Medical Authority on the  
 17          status and treatment of elderly offenders;  
 18          amending ss. 120.81, 413.051, 414.40, F.S.;  
 19          correcting cross-references; providing an  
 20          effective date.

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 22 Be It Enacted by the Legislature of the State of Florida:  
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24           Section 1. Section 944.02, Florida Statutes, is  
 25 amended to read:  
 26           944.02 Definitions.--The following words and phrases  
 27 used in this chapter shall, unless the context clearly  
 28 indicates otherwise, have the following meanings:  
 29           (1)~~(3)~~ "Commission" means the Parole Commission.  
 30           (2)~~(1)~~ "Correctional system" means all prisons and  
 31 other state correctional institutions now existing or

1 hereafter created under the jurisdiction of the Department of  
2 Corrections.

3 (3)~~(2)~~ "Department" means the Department of  
4 Corrections.

5 (4) "Elderly offender" means a prisoner age 50 or  
6 older in a state correctional institution or facility operated  
7 by the Department of Corrections or the Correctional  
8 Privatization Commission.

9 (5)~~(7)~~ "Lease-purchase agreement" means an installment  
10 sales contract which requires regular payments with an  
11 interest charge included and which provides that the lessee  
12 receive title to the property upon final payment.

13 (6)~~(5)~~ "Prisoner" means any person who is under arrest  
14 and in the lawful custody of any law enforcement official, or  
15 any person convicted and sentenced by any court and committed  
16 to any municipal or county jail or state prison, prison farm,  
17 or penitentiary, or to the custody of the department, as  
18 provided by law.

19 (7)~~(4)~~ "Secretary" means the Secretary of Corrections.

20 (8)~~(6)~~ "State correctional institution" means any  
21 prison, road camp, prison industry, prison forestry camp, or  
22 any prison camp or prison farm or other correctional facility,  
23 temporary or permanent, in which prisoners are housed, worked,  
24 or maintained, under the custody and jurisdiction of the  
25 department.

26 Section 2. Section 944.804, Florida Statutes, is  
27 created to read:

28 944.804 Elderly offenders correctional facilities  
29 program of 2000.--

30 (1) The Legislature finds that the number and  
31 percentage of elderly offenders in the Florida prison system

1 is increasing and will continue to increase for the foreseeable  
2 future. The current cost to incarcerate elderly offenders is  
3 approximately three times the cost of incarceration of younger  
4 inmates. Alternatives to the current approaches to housing,  
5 programming, and treating the medical needs of elderly  
6 offenders, which may reduce the overall costs associated with  
7 this segment of the prison population, must be explored and  
8 implemented.

9       (2) The department shall establish and operate a  
10 geriatric facility at the site known as River Junction  
11 Correctional Institution, which shall be an institution  
12 specifically for generally healthy elderly offenders who can  
13 perform general work appropriate for their physical and mental  
14 condition. Prior to reopening the facility, the department  
15 shall make modifications to the facility which will ensure its  
16 compliance with the Americans with Disabilities Act and  
17 decrease the likelihood of falls, accidental injury, and other  
18 conditions known to be particularly hazardous to the elderly.

19       (a) In order to decrease long-term medical costs to  
20 the state, a preventive fitness/wellness program and diet  
21 specifically designed to maintain the mental and physical  
22 health of elderly offenders shall be developed and  
23 implemented. In developing the program, the department shall  
24 give consideration to preventive medical care for the elderly  
25 which shall include, but not be limited to, maintenance of  
26 bone density, all aspects of cardiovascular health, lung  
27 capacity, mental alertness, and orientation. Existing  
28 policies and procedures shall be reexamined and altered to  
29 encourage offenders to adopt a more healthy lifestyle and  
30 maximize their level of functioning. The program components  
31 shall be modified as data and experience are received which

1 measure the relative success of the program components  
2 previously implemented.

3 (b) Consideration must be given to redirecting  
4 resources as a method of offsetting increased medical costs.  
5 Elderly offenders are not likely to reenter society as a part  
6 of the workforce, and programming resources would be better  
7 spent in activities to keep the elderly offenders healthy,  
8 alert, and oriented. Limited or restricted programming or  
9 activities for elderly offenders will increase the daily cost  
10 of institutional and health care; and programming  
11 opportunities adequate to reduce the cost of care will be  
12 provided. Programming shall include, but not be limited to,  
13 recreation, education, and counseling which is needs-specific  
14 to elderly offenders. Institutional staff shall be  
15 specifically trained to effectively supervise elderly  
16 offenders and to detect physical or mental changes which  
17 warrant medical attention before more serious problems  
18 develop.

19 (3) Notwithstanding the provisions of s. 120.54(1)(b),  
20 the department shall adopt rules within 90 days after the  
21 effective date of this act, or may initially adopt emergency  
22 rules, that specify which elderly offenders shall be eligible  
23 to be housed at River Junction Correctional Institution. The  
24 Legislature finds that initial emergency rulemaking power is  
25 necessary for the welfare of the people in order to provide  
26 future savings to benefit the public. The Legislature further  
27 finds that if the initial rules adopted are emergency rules,  
28 then the department need not make the findings required by s.  
29 120.54(4)(a).

30 (4) In developing the rules or initial emergency  
31 rules, the Legislature directs the department to target

1 occupancy at 100 percent, and to achieve occupancy of no less  
2 than 85 percent, at River Junction Correctional Institution.  
3 While developing the criteria for eligibility, the department  
4 shall use the information in existing offender databases to  
5 determine the number of offenders who would be eligible. The  
6 Legislature directs the department to consider a broad range  
7 of elderly offenders for River Junction Correctional  
8 Institution who have good disciplinary records and a medical  
9 grade that will permit them to perform meaningful work  
10 activities, including participation in an appropriate  
11 correctional work program (PRIDE) facility, if available.

12 (5) It is further the specific intent of the  
13 Legislature that implementation of these statutory provisions  
14 not be delayed until adoption of rules or emergency rules or  
15 during any period when previously existing rules are no longer  
16 in effect. During any such period, the department shall  
17 maintain an inmate population profile in accordance with the  
18 following schedule:

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<u>Profile Variable</u>	<u>Population</u>	<u>Variation</u>
	<u>Percent</u>	<u>Percent</u>
<u>Age 50 or greater</u>	<u>100%</u>	<u>2%</u>
<u>Custody Level</u>		
<u>Minimum/Medium</u>	<u>100%</u>	<u>.05%</u>
<u>Physical Health Grade</u>		
<u>M1 or M2</u>	<u>60%</u>	<u>1%</u>
<u>M3 with chronic condition(s)</u>		
<u>considered stable</u>	<u>40%</u>	<u>1%</u>
<u>Psychological Grade</u>		
<u>S1 or S2</u>	<u>100%</u>	<u>1%</u>

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1           (6) At the time of submission of the rules to the  
2 Joint Administrative Procedures Committee, the department  
3 shall also submit a study based on existing offenders which  
4 projects the number of existing offenders who will qualify  
5 under the rules. An appendix to the study shall identify the  
6 specific offenders who qualify.

7           Section 3. Section 944.8041, Florida Statutes, is  
8 created to read:

9           944.8041 Elderly offenders; annual review.--For the  
10 purpose of providing information to the Legislature on elderly  
11 offenders within the correctional system, the Florida  
12 Corrections Commission and the Correctional Medical Authority  
13 shall each submit annually a report on the status and  
14 treatment of elderly offenders in the state-administered and  
15 private state correctional systems, as well as such  
16 information on the River Junction Correctional Institution.  
17 In order to adequately prepare the reports, the Department of  
18 Corrections and the Correctional Privatization Commission  
19 shall grant access to the Florida Corrections Commission and  
20 the Correctional Medical Authority which includes access to  
21 the facilities, offenders, and any information the agencies  
22 require to complete their reports. The review shall also  
23 include an examination of promising geriatric policies,  
24 practices, and programs currently implemented in other  
25 correctional systems within the United States. The reports,  
26 with specific findings and recommendations for implementation,  
27 shall be submitted to the President of the Senate and the  
28 Speaker of the House of Representatives on or before December  
29 31 of each year.

30           Section 4. Paragraphs (a) and (b) of subsection (3) of  
31 section 120.81, Florida Statutes, are amended to read:

1           120.81 Exceptions and special requirements; general  
2 areas.--

3           (3) PRISONERS AND PAROLEES.--

4           (a) Notwithstanding s. 120.52(12), prisoners, as  
5 defined by s. 944.02~~(5)~~, shall not be considered parties in  
6 any proceedings other than those under s. 120.54(3)(c) or (7),  
7 and may not seek judicial review under s. 120.68 of any other  
8 agency action. Prisoners are not eligible to seek an  
9 administrative determination of an agency statement under s.  
10 120.56(4). Parolees shall not be considered parties for  
11 purposes of agency action or judicial review when the  
12 proceedings relate to the rescission or revocation of parole.

13           (b) Notwithstanding s. 120.54(3)(c), prisoners, as  
14 defined by s. 944.02~~(5)~~, may be limited by the Department of  
15 Corrections to an opportunity to present evidence and argument  
16 on issues under consideration by submission of written  
17 statements concerning intended action on any department rule.

18           Section 5. Paragraph (d) of subsection (2) of section  
19 413.051, Florida Statutes, is amended to read:

20           413.051 Eligible blind persons; operation of vending  
21 stands.--

22           (2) As used in this section:

23           (d) "State property" means any building or land owned,  
24 leased, or otherwise controlled by the state, but does not  
25 include any building or land under the control of the Board of  
26 Regents, a community college district board of trustees, or  
27 any state correctional institution as defined in s. 944.02~~(6)~~.

28           Section 6. Paragraph (a) of subsection (2) of section  
29 414.40, Florida Statutes, is amended to read:

30           414.40 Stop Inmate Fraud Program established;  
31 guidelines.--

