

By Senator McKay

rb2000-11

1 A reviser's bill to be entitled
2 An act relating to the Florida Statutes;
3 amending ss. 110.205, 112.3145, 112.531,
4 121.0515, 790.001, 922.052, 922.11, 922.12,
5 922.15, 944.09, 944.115, 944.14, 944.151,
6 944.28, 944.35, 944.402, 944.516, 945.41,
7 945.42, 945.43, 945.44, 945.45, 945.46, 945.47,
8 945.48, 946.25, and 947.26, F.S., pursuant to
9 the directive in s. 7, ch. 99-271, Laws of
10 Florida, to change the term "superintendent" to
11 "warden" wherever it appears in specified
12 provisions of the Florida Statutes.

13

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

15

16 Section 1. Paragraph (1) of subsection (2) of section
17 110.205, Florida Statutes, is amended to read:

18 110.205 Career service; exemptions.--

19 (2) EXEMPT POSITIONS.--The exempt positions which are
20 not covered by this part include the following, provided that
21 no position, except for positions established for a limited
22 period of time pursuant to paragraph (h), shall be exempted if
23 the position reports to a position in the career service:

24 (1) All assistant division director, deputy division
25 director, and bureau chief positions in any department, and
26 those positions determined by the department to have
27 managerial responsibilities comparable to such positions,
28 which positions include, but are not limited to, positions in
29 the Department of Health, the Department of Children and
30 Family Services, and the Department of Corrections that are
31 assigned primary duties of serving as the superintendent or

1 assistant superintendent, or warden or assistant warden, of an
2 institution; positions in the Department of Corrections that
3 are assigned primary duties of serving as the circuit
4 administrator or deputy circuit administrator; positions in
5 the Department of Transportation that are assigned primary
6 duties of serving as regional toll managers and managers of
7 offices as defined in s. 20.23(3)(d)3. and (4)(d); positions
8 in the Department of Environmental Protection that are
9 assigned the duty of an Environmental Administrator or program
10 administrator; those positions described in s. 20.171 as
11 included in the Senior Management Service; and positions in
12 the Department of Health that are assigned the duties of
13 Environmental Administrator, Assistant County Health
14 Department Director, and County Health Department Financial
15 Administrator. Unless otherwise fixed by law, the department
16 shall set the salary and benefits of these positions in
17 accordance with the rules established for the Selected Exempt
18 Service.

19 Section 2. Paragraph (b) of subsection (1) of section
20 112.3145, Florida Statutes, is amended to read:

21 112.3145 Disclosure of financial interests and clients
22 represented before agencies.--

23 (1) For purposes of this section, unless the context
24 otherwise requires, the term:

25 (b) "Specified state employee" means:

26 1. Public counsel created by chapter 350, an assistant
27 state attorney, an assistant public defender, a full-time
28 state employee who serves as counsel or assistant counsel to
29 any state agency, a judge of compensation claims, an
30 administrative law judge, or a hearing officer.

31

1 2. Any person employed in the office of the Governor
2 or in the office of any member of the Cabinet if that person
3 is exempt from the Career Service System, except persons
4 employed in clerical, secretarial, or similar positions.

5 3. Each appointed secretary, assistant secretary,
6 deputy secretary, executive director, assistant executive
7 director, or deputy executive director of each state
8 department, commission, board, or council; unless otherwise
9 provided, the division director, assistant division director,
10 deputy director, bureau chief, and assistant bureau chief of
11 any state department or division; or any person having the
12 power normally conferred upon such persons, by whatever title.

13 4. The superintendent or institute director of a state
14 mental health institute established for training and research
15 in the mental health field or the warden ~~superintendent~~ or
16 director of any major state institution or facility
17 established for corrections, training, treatment, or
18 rehabilitation.

19 5. Business managers, purchasing agents having the
20 power to make any purchase exceeding the threshold amount
21 provided for in s. 287.017 for CATEGORY ONE, finance and
22 accounting directors, personnel officers, or grants
23 coordinators for any state agency.

24 6. Any person, other than a legislative assistant
25 exempted by the presiding officer of the house by which the
26 legislative assistant is employed, who is employed in the
27 legislative branch of government, except persons employed in
28 maintenance, clerical, secretarial, or similar positions.

29 7. Each employee of the Commission on Ethics.

30 Section 3. Subsection (2) of section 112.531, Florida
31 Statutes, is amended to read:

1 112.531 Definitions.--As used in this part:

2 (2) "Correctional officer" means any person, other
3 than a warden ~~superintendent~~, who is appointed or employed
4 full time by the state or any political subdivision thereof
5 whose primary responsibility is the supervision, protection,
6 care, custody, or control of inmates within a correctional
7 institution; and includes correctional probation officers, as
8 defined in s. 943.10(3). However, the term "correctional
9 officer" does not include any secretarial, clerical, or
10 professionally trained personnel.

11 Section 4. Paragraph (c) of subsection (2) of section
12 121.0515, Florida Statutes, is amended to read:

13 121.0515 Special risk membership; criteria;
14 designation and removal of classification; credits for past
15 service and prior service; retention of special risk normal
16 retirement date.--

17 (2) CRITERIA.--A member, to be designated as a special
18 risk member, must meet the following criteria:

19 (c) The member must be employed as a correctional
20 officer and be certified, or required to be certified, in
21 compliance with s. 943.1395. In addition, the member's
22 primary duties and responsibilities must be the custody, and
23 physical restraint when necessary, of prisoners or inmates
24 within a prison, jail, or other criminal detention facility,
25 or while on work detail outside the facility, or while being
26 transported; or the member must be the supervisor or command
27 officer of a member or members who have such responsibilities;
28 provided, however, administrative support personnel,
29 including, but not limited to, those whose primary duties and
30 responsibilities are in accounting, purchasing, legal, and
31 personnel, shall not be included; however, wardens

1 ~~superintendents~~ and assistant wardens ~~superintendents~~ shall
2 participate in the Special Risk Class; or

3 Section 5. Paragraph (d) of subsection (8) of section
4 790.001, Florida Statutes, is amended to read:

5 790.001 Definitions.--As used in this chapter, except
6 where the context otherwise requires:

7 (8) "Law enforcement officer" means:

8 (d) An employee of the state prisons or correctional
9 systems who has been so designated by the Department of
10 Corrections or by a warden ~~superintendent~~ of an institution;

11 Section 6. Subsection (1) of section 922.052, Florida
12 Statutes, is amended to read:

13 922.052 Issuance of warrant of execution.--

14 (1) When a person is sentenced to death, the clerk of
15 the court shall prepare a certified copy of the record of the
16 conviction and sentence, and the sheriff shall send the record
17 to the Governor. The sentence shall not be executed until the
18 Governor issues a warrant, attaches it to the copy of the
19 record, and transmits it to the warden ~~superintendent~~,
20 directing the warden ~~superintendent~~ to execute the sentence at
21 a time designated in the warrant.

22 Section 7. Subsections (1) and (2) of section 922.11,
23 Florida Statutes, are amended to read:

24 922.11 Regulation of execution.--

25 (1) The warden ~~superintendent~~ of the state prison or a
26 deputy designated by him or her shall be present at the
27 execution. The warden ~~superintendent~~ shall set the day for
28 execution within the week designated by the Governor in the
29 warrant.

30 (2) Twelve citizens selected by the warden
31 ~~superintendent~~ shall witness the execution. A qualified

1 physician shall be present and announce when death has been
2 inflicted. Counsel for the convicted person and ministers of
3 religion requested by the convicted person may be present.
4 Representatives of news media may be present under rules
5 approved by the Secretary of Corrections. All other persons,
6 except prison officers and correctional officers, shall be
7 excluded during the execution.

8 Section 8. Section 922.12, Florida Statutes, is
9 amended to read:

10 922.12 Return of warrant of execution issued by
11 Governor.--After the death sentence has been executed, the
12 warden ~~superintendent~~ of the state prison shall send the
13 warrant and a signed statement of the execution to the
14 Secretary of State. The warden ~~superintendent~~ shall file an
15 attested copy of the warrant and statement with the clerk of
16 the court that imposed the sentence.

17 Section 9. Section 922.15, Florida Statutes, is
18 amended to read:

19 922.15 Return of warrant of execution issued by
20 Supreme Court.--After the sentence has been executed pursuant
21 to a warrant issued by the Supreme Court, the warden
22 ~~superintendent~~ of the state prison shall send the warrant and
23 a signed statement of the execution to the Secretary of State.
24 The warden ~~superintendent~~ shall file an attested copy of the
25 warrant and statement with the clerk of the court that imposed
26 the sentence. The warden ~~superintendent~~ shall send to the
27 Governor an attested copy of the warrant and statement.

28 Section 10. Paragraph (n) of subsection (1) and
29 subsection (2) of section 944.09, Florida Statutes, are
30 amended to read:

31

1 944.09 Rules of the department; offenders,
2 probationers, and parolees.--

3 (1) The department has authority to adopt rules
4 pursuant to ss. 120.536(1) and 120.54 to implement its
5 statutory authority. The rules must include rules relating to:

6 (n) Visiting hours and privileges. The rules shall
7 provide that any inmate with a current or prior conviction for
8 any offense contained in chapter 794, chapter 800, chapter
9 827, or chapter 847 for committing or attempting to commit
10 aggravated child abuse or committing or attempting to commit a
11 sex act on, in the presence of, or against a child under the
12 age of 16 years, shall not be allowed visitation with anyone
13 under the age of 18 years, unless special visitation is
14 approved by the warden ~~superintendent~~. The authorization for
15 special visitation shall be based on extenuating circumstances
16 that serve the interest of the children. If visiting is
17 restricted by court order, permission for special visitation
18 may be granted only by the judge issuing the order.

19 (2) It is the duty of the wardens ~~superintendents~~ to
20 supervise the governance, discipline, and policy of the state
21 correctional institutions and to enforce all orders and rules.

22 Section 11. Paragraph (b) of subsection (3) of section
23 944.115, Florida Statutes, is amended to read:

24 944.115 Smoking prohibited inside state correctional
25 facilities.--

26 (3)

27 (b)1. An employee or visitor may not use any tobacco
28 products in prohibited areas.

29 2. The ~~superintendent, warden, or~~ supervisor of a
30 state correctional facility shall take reasonable steps to
31

1 ensure that the tobacco prohibition for employees and visitors
2 is strictly enforced.

3 Section 12. Section 944.14, Florida Statutes, is
4 amended to read:

5 944.14 Supervision of correctional institutions;
6 enforcement of orders and regulations.--Subject to the orders,
7 policies, and regulations established by the department, it
8 shall be the duty of the wardens ~~or superintendents~~ to
9 supervise the government, discipline, and policy of the state
10 correctional institutions, and to enforce all orders, rules
11 and regulations.

12 Section 13. Subsection (1) of section 944.151, Florida
13 Statutes, is amended to read:

14 944.151 Security of correctional institutions;
15 legislative intent; periodic physical inspection of
16 facilities; security audits; reports of security audits;
17 procedures in the event of escapes; annual budget request.--It
18 is the intent of the Legislature that the Department of
19 Corrections shall be responsible for the security of the
20 correctional institutions and facilities. The security of the
21 state's correctional institutions and facilities is critical
22 to ensure public safety and to contain violent and chronic
23 offenders until offenders are otherwise released from the
24 department's custody pursuant to law. The Secretary of
25 Corrections shall, at a minimum:

26 (1) Appoint a security review committee which shall,
27 at a minimum, be composed of: the inspector general, the
28 statewide security coordinator, the regional security
29 coordinators, and three wardens ~~superintendents~~ and one
30 correctional officer. The security review committee shall:
31

1 (a) Establish a periodic schedule for the physical
2 inspection of buildings and structures of each state and
3 private correctional institution to determine security
4 deficiencies. In scheduling the inspections, priority shall
5 be given to older institutions, institutions that house a
6 large proportion of violent offenders, and institutions that
7 have experienced a significant number of escapes or escape
8 attempts in the past.

9 (b) Conduct or cause to be conducted announced and
10 unannounced comprehensive security audits of all state and
11 private correctional institutions. In conducting the security
12 audits, priority shall be given to older institutions,
13 institutions that house a large proportion of violent
14 offenders, and institutions that have experienced a history of
15 escapes or escape attempts. At a minimum, the audit shall
16 include an evaluation of the physical plant, landscaping,
17 fencing, security alarms and perimeter lighting, and inmate
18 classification and staffing policies. Each correctional
19 institution shall be audited at least annually. The secretary
20 shall report the general survey findings annually to the
21 Governor and the Legislature.

22 (c) Adopt and enforce minimum security standards and
23 policies that include, but are not limited to:

- 24 1. Random monitoring of outgoing telephone calls by
25 inmates.
- 26 2. Maintenance of current photographs of all inmates.
- 27 3. Daily inmate counts at varied intervals.
- 28 4. Use of canine units, where appropriate.
- 29 5. Use of escape alarms and perimeter lighting.
- 30 6. Florida Crime Information Center/National Crime
31 Information Center capabilities.

1 7. Employment background investigations.

2 (d) Annually make written prioritized budget
3 recommendations to the secretary that identify critical
4 security deficiencies at major correctional institutions.

5 (e) Investigate and evaluate the usefulness and
6 dependability of existing security technology at the
7 institutions and new technology available and make periodic
8 written recommendations to the secretary on the
9 discontinuation or purchase of various security devices.

10 (f) Contract, if deemed necessary, with security
11 personnel, consulting engineers, architects, or other security
12 experts the committee deems necessary for security audits and
13 security consultant services.

14 (g) Establish a periodic schedule for conducting
15 announced and unannounced escape simulation drills.

16 Section 14. Paragraph (c) of subsection (2) and
17 subsection (3) of section 944.28, Florida Statutes, are
18 amended to read:

19 944.28 Forfeiture of gain-time and the right to earn
20 gain-time in the future.--

21 (2)

22 (c) The method of declaring a forfeiture under
23 paragraph (a) or paragraph (b) shall be as follows: A written
24 charge shall be prepared, which shall specify each instance of
25 misconduct upon which it is based and the approximate date
26 thereof. A copy of such charge shall be delivered to the
27 prisoner, and he or she shall be given notice of a hearing
28 before the disciplinary committee created under the
29 authorization of rules heretofore or hereafter adopted by the
30 department for the institution in which he or she is confined.
31 The prisoner shall be present at the hearing. If at such

1 hearing the prisoner pleads guilty to the charge or if the
2 committee determines that the prisoner is guilty thereof upon
3 the basis of proof presented at such hearing, it shall find
4 him or her guilty. If the committee considers that all or
5 part of the prisoner's gain-time and the prisoner's right to
6 earn gain-time during all or any part of the sentence or
7 sentences under which he or she is imprisoned shall be
8 forfeited, it shall so recommend in its written report. Such
9 report shall be presented to the warden ~~superintendent~~ of the
10 institution, who may approve such recommendation in whole or
11 in part by endorsing such approval on the report. In the
12 event of approval, the warden ~~superintendent~~ shall forward the
13 report to the department. Thereupon, the department may, in
14 its discretion, declare the forfeiture thus approved by the
15 warden ~~superintendent~~ or any specified part thereof.

16 (3) Upon the recommendation of the warden
17 ~~superintendent~~, the department may, in its discretion, restore
18 all or any part of any gain-time forfeited under this section.

19 Section 15. Paragraph (b) of subsection (1),
20 subsection (2), and paragraph (d) of subsection (3) of section
21 944.35, Florida Statutes, are amended to read:

22 944.35 Authorized use of force; malicious battery and
23 sexual misconduct prohibited; reporting required; penalties.--

24 (1)

25 (b) Following any use of force, a qualified health
26 care provider shall examine any person physically involved to
27 determine the extent of injury, if any, and shall prepare a
28 report which shall include, but not be limited to, a statement
29 of whether further examination by a physician is necessary.
30 Any noticeable physical injury shall be examined by a
31 physician and the physician shall prepare a report documenting

1 the extent and probable cause of the injury and the treatment
2 prescribed. Such report shall be completed within 5 working
3 days of the incident and shall be submitted to the warden
4 ~~superintendent~~ for appropriate investigation.

5 (2) Each employee of the department who either applies
6 physical force or was responsible for making the decision to
7 apply physical force upon an inmate or an offender supervised
8 by the department in the community pursuant to this subsection
9 shall prepare, date, and sign an independent report within 5
10 working days of the incident. The report shall be delivered to
11 the warden ~~superintendent~~ or the regional administrator, who
12 shall have an investigation made and shall approve or
13 disapprove the force used. The employee's report, together
14 with the warden's ~~superintendent's~~ or regional administrator's
15 written approval or disapproval of the force used and the
16 reasons therefor, shall be forwarded within 5 working days of
17 the date of the completion of the investigation to the
18 regional director. The regional director shall, in writing,
19 concur in the warden's ~~superintendent's~~ or regional
20 administrator's evaluation or disapprove it. Copies of the
21 employee's report, the warden's ~~superintendent's~~ or regional
22 administrator's evaluation, and the regional director's review
23 shall be kept in the files of the inmate or the offender
24 supervised by the department in the community. A notation of
25 each incident involving use of force and the outcome based on
26 the warden's ~~superintendent's~~ or regional director's
27 evaluation and the regional administrator's review shall be
28 kept in the employee's file.

29 (3)

30 (d) Each employee who witnesses, or has reasonable
31 cause to suspect, that an inmate or an offender under the

1 supervision of the department in the community has been
2 unlawfully abused or is the subject of sexual misconduct
3 pursuant to this subsection shall immediately prepare, date,
4 and sign an independent report specifically describing the
5 nature of the force used or the nature of the sexual
6 misconduct, the location and time of the incident, and the
7 persons involved. The report shall be delivered to the
8 inspector general of the department with a copy to be
9 delivered to the warden ~~superintendent~~ of the institution or
10 the regional administrator. The inspector general shall
11 immediately conduct an appropriate investigation, and, if
12 probable cause is determined that a violation of this
13 subsection has occurred, the respective state attorney in the
14 circuit in which the incident occurred shall be notified.

15 Section 16. Section 944.402, Florida Statutes, is
16 amended to read:

17 944.402 Reward for capture of escapee from
18 correctional institution.--The warden ~~superintendent~~ of a
19 state correctional institution may pay a reward in an amount
20 not greater than \$100 from institutional funds to each person
21 who is directly responsible for the capture of an inmate who
22 has escaped from the institution. The warden ~~superintendent~~
23 of the institution from which the inmate escaped shall
24 determine the amount of the reward. Employees of state,
25 county, and municipal law enforcement or correctional agencies
26 who are engaged in the apprehension, detection, or detention
27 of prisoners are not eligible to receive such rewards.

28 Section 17. Section 944.516, Florida Statutes, is
29 amended to read:

30 944.516 Money or other property received for personal
31 use or benefit of inmate; deposit; disposition of unclaimed

1 trust funds.--The Department of Corrections shall protect the
2 financial interest of the state with respect to claims which
3 the state may have against inmates in state institutions under
4 its supervision and control and shall administer money and
5 other property received for the personal benefit of such
6 inmates. In carrying out the provisions of this section, the
7 department may delegate any of its enumerated powers and
8 duties affecting inmates of an institution to the warden
9 ~~superintendent~~ or regional director who shall personally, or
10 through designated employees of his or her personal staff
11 under his or her direct supervision, exercise such powers or
12 perform such duties.

13 (1) The Department of Corrections may:

14 (a) Accept and administer as a trust any money or
15 other property received for the personal use or benefit of any
16 inmate.

17 (b) Deposit money so received in banks qualified as
18 state depositories.

19 (c) Withdraw any such money and use it to meet the
20 current needs of the inmate as they may exist from time to
21 time.

22 (d) As trustee, invest in the manner authorized by law
23 for fiduciaries such moneys not required to be used for
24 current needs of the inmate.

25 (e) Commingle such moneys for the purpose of deposit
26 or investment.

27 (f) Use interest earned from investments to replace
28 any funds belonging to an inmate which have been stolen, lost,
29 or otherwise misappropriated from the inmate's trust account
30 through no fault of the state and which cannot be replaced by
31 appropriated funds, insurance payments, or other available

1 resources. Such use of interest may be made only if, pursuant
2 to a thorough investigation as part of the normal auditing
3 process, the internal auditor of the department recommends in
4 a written report that such use is appropriate. The report may
5 also recommend other action, including prosecution, with
6 respect to any missing funds. If the internal auditor of the
7 department concludes that the department is at fault, the loss
8 shall be replaced out of department funds; interest from the
9 inmate trust fund may not be used to replace such loss.

10 (g) Establish, by rule, a limit on each inmate's trust
11 account, including the interest earned thereon, and deduct
12 from any moneys in the inmate's trust account exceeding that
13 limit moneys sufficient to pay for the cost of postage of any
14 mail sent by the inmate which postage the state is not
15 constitutionally required to pay.

16 (2) The department shall require documentation through
17 an accounting of receipts for expenditures by inmates placed
18 on extended limits of confinement pursuant to s. 945.091.
19 However, the department may allow such inmates an amount up to
20 \$25 per week which may not require documentation and which may
21 be used for discretionary needs. The \$25 per week may be
22 increased by \$5 biennially, beginning in fiscal year
23 1985-1986, up to a total of \$50.

24 (3) Moneys received by the department in payment of
25 claims of the state against inmates shall be transmitted to
26 the Treasurer for deposit into the General Revenue Fund.

27 (4) Upon the death of any inmate in an institution
28 affected by the provisions of this section, any unclaimed
29 money held for the inmate in trust by the department or by the
30 Treasurer shall be applied first to the payment of any unpaid
31 state claim against the inmate, and any balance remaining

1 unclaimed for a period of 1 year shall escheat to the state as
2 unclaimed funds held by fiduciaries.

3 (5) When an inmate is transferred between department
4 facilities, is released from the custody of the department,
5 dies, or escapes during incarceration, and the inmate has an
6 unexpended inmate trust fund account balance of less than \$1,
7 that balance shall be transferred to the Inmate Welfare Trust
8 Fund.

9 Section 18. Subsection (4) of section 945.41, Florida
10 Statutes, is amended to read:

11 945.41 Legislative intent of ss. 945.40-945.49.--It is
12 the intent of the Legislature that mentally ill inmates in the
13 custody of the Department of Corrections receive evaluation
14 and appropriate treatment for their mental illness through a
15 continuum of services. It is further the intent of the
16 Legislature that:

17 (4) Any inmate sentenced as a youthful offender, or
18 designated as a youthful offender by the department pursuant
19 to chapter 958, who is transferred pursuant to this act to a
20 mental health treatment facility be separated from other
21 inmates, if necessary, as determined by the warden
22 ~~superintendent~~ of the treatment facility. In no case shall
23 any youthful offender be placed at the Florida State Prison or
24 the Union Correctional Institution for mental health
25 treatment.

26 Section 19. Subsection (12) of section 945.42, Florida
27 Statutes, is amended to read:

28 945.42 Definitions.--As used in ss. 945.40-945.49, the
29 following terms shall have the meanings ascribed to them,
30 unless the context shall clearly indicate otherwise:

31

1 (12) "Warden"~~"Superintendent"~~ means the warden
2 ~~superintendent~~ of a state corrections facility or his or her
3 designee.

4 Section 20. Paragraphs (a) and (c) of subsection (2)
5 and subsections (3) and (4) of section 945.43, Florida
6 Statutes, are amended to read:

7 945.43 Admission of inmate to mental health treatment
8 facility.--

9 (2) ADMISSION TO A MENTAL HEALTH TREATMENT FACILITY.--

10 (a) An inmate may be admitted to a mental health
11 treatment facility after notice and hearing, upon the
12 recommendation of the warden ~~superintendent~~ of the facility
13 where the inmate is confined and of the director. The
14 recommendation shall be entered on a certificate and must be
15 supported by the expert opinion of a psychiatrist and the
16 second opinion of a psychiatrist or psychologist. The
17 certificate shall be filed with the court in the county where
18 the inmate is located and shall serve as a petition for a
19 hearing regarding placement.

20 (c) The petition may be filed in the county in which
21 the inmate is being treated at any time within 6 months of the
22 date of the certificate. The hearing shall be held in the
23 same county, and one of the inmate's physicians at the
24 facility shall appear as a witness at the hearing. If the
25 court finds that the inmate is mentally ill and in need of
26 care and treatment, it shall order that he or she be admitted
27 to a mental health treatment facility or, if the inmate is at
28 a mental health treatment facility, that he or she be retained
29 there. However, the inmate may be immediately transferred to
30 and admitted at a mental health treatment facility by
31 executing a waiver of the hearing by express and informed

1 consent, without awaiting the court order. The court shall
2 authorize the mental health treatment facility to retain the
3 inmate for up to 6 months. If, at the end of that time,
4 continued treatment is necessary, the warden ~~superintendent~~
5 shall apply to the court for an order authorizing continued
6 placement.

7 (3) PROCEDURE FOR HEARING ON TRANSFER OF AN INMATE FOR
8 MENTAL HEALTH TREATMENT.--If the inmate does not waive a
9 hearing or if the inmate or the inmate's representative files
10 a petition for a hearing after having waived it, the court
11 shall serve notice on the warden ~~superintendent~~ of the
12 facility where the inmate is confined, the director, and the
13 allegedly mentally ill inmate. The notice shall specify the
14 date, time, and place of the hearing; the basis for the
15 allegation of mental illness; and the names of the examining
16 experts. The hearing shall be held within 5 days, and the
17 court may appoint a master to preside. The hearing may be as
18 informal as is consistent with orderly procedure. One of the
19 experts whose opinion supported the recommendation shall be
20 present at the hearing for information purposes. If, at the
21 hearing, the court finds that the inmate is mentally ill and
22 in need of care and treatment, it shall order that he or she
23 be transferred to a mental health treatment facility and
24 provided appropriate treatment. The court shall provide a
25 copy of its order authorizing transfer and all supporting
26 documentation relating to the inmate's condition to the warden
27 ~~superintendent~~ of the treatment facility. If the court finds
28 that the inmate is not mentally ill, it shall dismiss the
29 petition for transfer.

30 (4) ADMISSION; WHEN REFUSAL ALLOWED.--The warden
31 ~~superintendent~~ of a treatment facility may refuse to admit any

1 inmate who is not accompanied by adequate court orders and
2 documentation, as required in ss. 945.40-945.49.

3 Section 21. Subsection (2) of section 945.44, Florida
4 Statutes, is amended to read:

5 945.44 Emergency admission of inmate to mental health
6 treatment facility.--

7 (2) PROCEDURE FOR EMERGENCY ADMISSION.--An inmate who
8 is mentally ill and in immediate need of care and treatment
9 which cannot be provided at the institution where he or she is
10 confined may be admitted to a mental health treatment facility
11 on an emergency basis. The inmate may be transferred
12 immediately to the facility and shall be accompanied by the
13 recommendation of the warden ~~superintendent~~ of the institution
14 where the inmate is confined, which recommendation shall state
15 the need for the transfer and shall include a written opinion
16 of a physician verifying the need for transfer. Upon the
17 admission of the inmate to the facility, the inmate shall be
18 evaluated; if he or she is determined to be in need of
19 treatment or care, the warden ~~superintendent~~ shall initiate
20 proceedings for placement of the inmate, as described in s.
21 945.43(2).

22 Section 22. Subsection (1) of section 945.45, Florida
23 Statutes, is amended to read:

24 945.45 Procedure for continued placement of inmates.--

25 (1) If continued placement of an inmate is necessary,
26 the warden ~~superintendent~~ shall, prior to the expiration of
27 the period during which the treatment facility is authorized
28 to retain the inmate, request an order authorizing continued
29 placement. This request shall be accompanied by a statement
30 from the inmate's physician justifying the request and a brief
31 summary of the inmate's treatment during the time he or she

1 has been placed. In addition, the warden ~~superintendent~~ shall
2 submit an individualized plan for the inmate for whom he or
3 she is requesting continued placement. Notification of this
4 request for retention shall be mailed to the inmate and the
5 inmate's representative along with a completed petition,
6 requesting only a signature and a waiver-of-hearing form. The
7 waiver-of-hearing form shall require express and informed
8 consent and shall state that the inmate is entitled to a
9 hearing under the law; that the inmate is entitled to be
10 represented by an attorney at the hearing and that, if the
11 inmate cannot afford an attorney, one will be appointed; and
12 that, if it is shown at the hearing that the inmate does not
13 meet the criteria for continued placement, he or she will be
14 transferred to another facility of the department. If the
15 inmate or the inmate's representative does not sign the
16 petition, or if the inmate does not sign a waiver within 15
17 days, the administrative law judge shall notice a hearing with
18 regard to the inmate involved in accordance with ss. 120.569
19 and 120.57(1).

20 Section 23. Section 945.46, Florida Statutes, is
21 amended to read:

22 945.46 Initiation of involuntary placement proceedings
23 with respect to a mentally ill inmate scheduled for
24 release.--If an inmate who is receiving mental health
25 treatment in the department is scheduled for release through
26 expiration of sentence or any other means, but continues to be
27 mentally ill and in need of care and treatment, the warden
28 ~~superintendent~~ is authorized to initiate procedures for
29 involuntary placement pursuant to the provisions of s.
30 394.467, 60 days prior to such release.

31

1 Section 24. Subsection (1) of section 945.47, Florida
2 Statutes, is amended to read:

3 945.47 Discharge of inmate from mental health
4 treatment.--

5 (1) An inmate who has been transferred for the purpose
6 of mental health treatment shall be discharged from treatment
7 by the warden ~~superintendent~~ under the following conditions:

8 (a) If the inmate is no longer in need of care and
9 treatment, he or she may be transferred to another institution
10 in the department;

11 (b) If the inmate continues to be mentally ill, but is
12 not in need of care and treatment as an inpatient, he or she
13 may be transferred to another institution in the department
14 and provided appropriate outpatient and aftercare services;

15 (c) If the inmate's sentence expires during his or her
16 treatment, but he or she is no longer in need of care and
17 treatment as an inpatient, the inmate may be released with a
18 recommendation for outpatient treatment, pursuant to the
19 provisions of ss. 945.40-945.49; or

20 (d) If the inmate's sentence expires and he or she
21 continues to be mentally ill and in need of care and
22 treatment, the warden ~~superintendent~~ shall initiate
23 proceedings for involuntary placement, pursuant to s. 394.467.

24 Section 25. Paragraphs (a), (b), and (d) of subsection
25 (2) of section 945.48, Florida Statutes, are amended to read:

26 945.48 Rights of inmate provided treatment.--

27 (2) RIGHT TO EXPRESS AND INFORMED CONSENT.--Any inmate
28 provided psychiatric treatment within the department shall be
29 asked to give his or her express and informed written consent
30 for such treatment. "Express and informed written consent" or
31 "consent" means consent voluntarily given in writing after a

1 conscientious and sufficient explanation and disclosure of the
2 purpose of the proposed treatment; the common side effects of
3 the treatment, if any; the expected duration of the treatment;
4 and the alternative treatment available. The explanation
5 shall enable the inmate to make a knowing and willful decision
6 without any element of fraud, deceit, or duress or any other
7 form of constraint or coercion. Involuntary mental health
8 treatment of an inmate who refuses treatment that is deemed to
9 be necessary for the appropriate care of the inmate and the
10 safety of the inmate or others may be provided at an
11 institution authorized to do so by the Assistant Secretary for
12 Health Services under the following circumstances:

13 (a) In an emergency situation in which there is
14 immediate danger to the health and safety of the inmate or
15 other inmates, such treatment may be provided upon the written
16 order of a physician for a period not to exceed 48 hours,
17 excluding weekends and legal holidays. If, after the 48-hour
18 period, the inmate has not given express and informed consent
19 to the treatment initially refused, the warden ~~superintendent~~
20 shall, within 48 hours, excluding weekends and legal holidays,
21 petition the circuit court serving the county in which the
22 facility is located for an order authorizing the continued
23 treatment of the inmate. In the interim, treatment may be
24 continued upon the written order of a physician who has
25 determined that the emergency situation continues to present a
26 danger to the safety of the inmate or others. If an inmate
27 must be isolated for mental health purposes, that decision
28 must be reviewed within 72 hours by medical staff different
29 from that making the original placement.

30 (b) In a situation other than an emergency situation,
31 the warden ~~superintendent~~ shall petition the court for an

1 order authorizing the treatment of the inmate. The order
2 shall allow such treatment for a period not to exceed 90 days
3 from the date of the order. Unless the court is notified in
4 writing that the inmate has provided express and informed
5 consent in writing, that the inmate has been transferred to
6 another institution of the department, or that the inmate is
7 no longer in need of treatment, the warden ~~superintendent~~
8 shall, prior to the expiration of the initial 90-day order,
9 petition the court for an order authorizing the continuation
10 of treatment for another 90-day period. This procedure shall
11 be repeated until the inmate provides consent or is no longer
12 in need of treatment. Treatment may be continued pending a
13 hearing after the filing of any petition.

14 (d) In addition to the above provisions, when the
15 permission of the inmate cannot be obtained, the warden
16 ~~superintendent~~ of a mental health treatment facility, or his
17 or her designated representative, with the concurrence of the
18 inmate's attending physician, may authorize emergency surgical
19 or nonpsychiatric medical treatment if such treatment is
20 deemed lifesaving or there is a situation threatening serious
21 bodily harm to the inmate.

22 Section 26. Section 946.25, Florida Statutes, is
23 amended to read:

24 946.25 Sale of hobbycrafts by prisoners.--When, in the
25 planning of the rehabilitation program of the Department of
26 Corrections through its recreational facilities, plans are
27 made for prisoners to engage in hobbies and hobbycrafts after
28 their normal working hours and when they are not required by
29 the ~~superintendent~~ or warden of a state prison or correctional
30 institution to be on their assigned duties, they may make
31 items of a hobby or hobbycraft nature which may be disposed of

1 by the prisoner through the institutional canteen or
2 commissary to persons visiting the institution.

3 Section 27. Section 947.26, Florida Statutes, is
4 amended to read:

5 947.26 Cooperation of custodian of prisoner; right of
6 access.--The ~~superintendent~~, warden, or jailer of any jail or
7 prison in which persons convicted of crime may be confined and
8 all officers or employees thereof shall at all times cooperate
9 with the commission and, upon its request, shall furnish it
10 with such information as they may have respecting any person
11 inquired about as will enable the commission properly to
12 perform its duties. Such officials shall, at all reasonable
13 times, when the public safety permits, give the members of the
14 commission and its authorized agents and employees access to
15 all prisoners in their charge.

16
17 Reviser's note.--Amended pursuant to the
18 directive in s. 7, ch. 99-271, Laws of Florida,
19 to change the term "superintendent" to "warden"
20 wherever it appears in specified provisions of
21 the Florida Statutes.

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