

By the Committee on Appropriations and Senator Cowin

309-1855-01

1 A bill to be entitled
2 An act relating to the Department of
3 Corrections; transferring the Office for
4 Certification and Monitoring of Batterers'
5 Intervention Programs from the Department of
6 Corrections to the Department of Children and
7 Family Services; amending ss. 741.32, 741.325,
8 F.S.; revising references to conform to the
9 transfer of the office; transferring,
10 renumbering, and amending s. 945.76, F.S.;
11 transferring authority for certain fee
12 assessment and collection from the Department
13 of Corrections to the Department of Children
14 and Family Services; amending s. 921.0024,
15 F.S.; removing the Department of Corrections'
16 responsibility for preparing sentencing
17 scoresheets; amending s. 944.023, F.S.;
18 removing reference to pretrial intervention
19 from the correctional master plan; amending s.
20 944.026, F.S.; removing reference to pretrial
21 intervention programs as community-based
22 programs; amending s. 948.03, F.S.; removing
23 offenders under pretrial intervention from
24 state employee status pursuant to chapter 440,
25 F.S., when participating in a work program;
26 amending s. 948.08, F.S.; deleting the
27 Department of Corrections' responsibilities and
28 authority regarding pretrial intervention and
29 providing for the counties to supervise
30 pretrial intervention offenders; amending s.
31 948.09, F.S.; removing reference to pretrial

1 intervention with respect to cost of
2 supervision and rehabilitation; providing an
3 effective date.

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

6
7 Section 1. The Office for Certification and Monitoring
8 of Batterers' Intervention Programs within the Department of
9 Corrections is transferred by a type two transfer, as defined
10 in section 20.06(2), Florida Statutes, to the Department of
11 Children and Family Services. All powers, duties, functions,
12 rules, records, personnel, property, and unexpended balances
13 of appropriations, allocations, or other funds of the
14 Department of Corrections relating to the Office for
15 Certification and Monitoring of Batterers' Intervention
16 Programs are transferred by a type two transfer, as defined in
17 section 20.06(2), Florida Statutes, to the Department of
18 Children and Family Services.

19 Section 2. Subsection (2) of section 741.32, Florida
20 Statutes, is amended to read:

21 741.32 Certification of batterers' intervention
22 programs.--

23 (2) There is ~~hereby~~ established in the Department of
24 Children and Family Services ~~Corrections~~ an Office for
25 Certification and Monitoring of Batterers' Intervention
26 Programs. The department may certify and monitor both programs
27 and personnel providing direct services to those persons who
28 are adjudged to have committed an act of domestic violence as
29 defined in s. 741.28, those against whom an injunction for
30 protection against domestic violence is entered, those
31 referred by the department ~~of Children and Family Services,~~

1 and those who volunteer to attend such programs. The purpose
2 of certification of programs is to uniformly and
3 systematically standardize programs to hold those who
4 perpetrate acts of domestic violence responsible for those
5 acts and to ensure safety for victims of domestic violence.
6 The certification and monitoring shall be funded by user fees
7 as provided in s. 741.327 ~~s. 945.76~~.

8 Section 3. Section 741.325, Florida Statutes, is
9 amended to read:

10 741.325 Guideline authority.--The Department of
11 Children and Family Services ~~Corrections~~ shall adopt
12 ~~promulgate~~ guidelines to govern purpose, policies, standards
13 of care, appropriate intervention approaches, inappropriate
14 intervention approaches during the batterers' program
15 intervention phase (to include couples counseling and
16 mediation), conflicts of interest, assessment, program content
17 and specifics, qualifications of providers, and credentials
18 for facilitators, supervisors, and trainees. The department
19 shall, in addition, establish specific procedures governing
20 all aspects of program operation, including administration,
21 personnel, fiscal matters, victim and batterer records,
22 education, evaluation, referral to treatment and other matters
23 as needed. In addition, the rules shall establish:

24 (1) That the primary purpose of the programs shall be
25 victim safety and the safety of the children, if present.

26 (2) That the batterer shall be held accountable for
27 acts of domestic violence.

28 (3) That the programs shall be at least 29 weeks in
29 length and shall include 24 weekly sessions, plus appropriate
30 intake, assessment, and orientation programming.

31

1 (4) That the program be a psychoeducational model that
2 employs a program content based on tactics of power and
3 control by one person over another.

4 (5) That the programs and those who are facilitators,
5 supervisors, and trainees be certified to provide these
6 programs through initial certification and that the programs
7 and personnel be annually monitored to ensure that they are
8 meeting specified standards.

9 (6) The intent that the programs be user-fee funded
10 with fees from the batterers who attend the program as payment
11 for programs is important to the batterer taking
12 responsibility for the act of violence, and from those seeking
13 certification. Exception shall be made for those local,
14 state, or federal programs that fund batterers' intervention
15 programs in whole or in part.

16 (7) Standards for rejection and suspension for failure
17 to meet certification standards.

18 (8) That these standards shall apply only to programs
19 that address the perpetration of violence between intimate
20 partners, spouses, ex-spouses, or those who share a child in
21 common or who are cohabitants in intimate relationships for
22 the purpose of exercising power and control by one over the
23 other. It will endanger victims if courts and other referral
24 agencies refer family and household members who are not
25 perpetrators of the type of domestic violence encompassed by
26 these standards. Accordingly, the court and others who make
27 referrals should refer perpetrators only to programming that
28 appropriately addresses the violence committed.

29 Section 4. Section 945.76, Florida Statutes, is
30 transferred, renumbered as section 741.327, Florida Statutes,
31 and amended to read:

1 741.327~~945.76~~ Certification and monitoring of
2 batterers' intervention programs; fees.--

3 (1) Pursuant to s. 741.32, the Department of Children
4 and Family Services ~~Corrections~~ is authorized to assess and
5 collect:

6 (a) An annual certification fee not to exceed \$300 for
7 the certification and monitoring of batterers' intervention
8 programs.

9 (b) An annual certification fee not to exceed \$200 for
10 the certification and monitoring of assessment personnel
11 providing direct services to persons who:

12 1. Are ordered by the court to participate in a
13 domestic violence prevention program;

14 2. Are adjudged to have committed an act of domestic
15 violence as defined in s. 741.28;

16 3. Have an injunction entered for protection against
17 domestic violence; or

18 4. Agree to attend a program as part of a diversion or
19 pretrial intervention agreement by the offender with the state
20 attorney.

21 (2) All persons required by the court to attend
22 domestic violence programs certified by the Department of
23 Children and Family Services ~~Corrections~~ Office for of
24 Certification and Monitoring of Batterers' Intervention
25 Programs shall pay an additional \$30 fee for each 29-week
26 program to the Department of Children and Family Services
27 ~~Corrections~~.

28 (3) The fees assessed and collected under this section
29 shall be deposited in the Executive Office of the Governor's
30 Domestic Violence ~~department's Operating~~ Trust Fund
31 established in s. 741.01 and directed to the Department of

1 Children and Family Services to fund the cost of certifying
2 and monitoring batterers' intervention programs.

3 Section 5. Subsection (3) of section 921.0024, Florida
4 Statutes, is amended to read:

5 921.0024 Criminal Punishment Code; worksheet
6 computations; scoresheets.--

7 (3) A single scoresheet shall be prepared for each
8 defendant to determine the permissible range for the sentence
9 that the court may impose, except that if the defendant is
10 before the court for sentencing for more than one felony and
11 the felonies were committed under more than one version or
12 revision of the guidelines or the code, separate scoresheets
13 must be prepared. The scoresheet or scoresheets must cover all
14 the defendant's offenses pending before the court for
15 sentencing. ~~Either the office of The state attorney or the~~
16 ~~Department of Corrections, or both where appropriate,~~ shall
17 prepare the scoresheet or scoresheets, which must be presented
18 to the defense counsel for review for accuracy in all cases
19 unless the judge directs otherwise. The defendant's
20 scoresheet or scoresheets must be approved and signed by the
21 sentencing judge.

22 Section 6. Paragraph (d) of subsection (4) of section
23 944.023, Florida Statutes, is amended to read:

24 944.023 Comprehensive correctional master plan.--

25 (4) The comprehensive correctional master plan shall
26 use the estimates of the Criminal Justice Estimating
27 Conference and shall include:

28 (d) A detailed analysis of methods to implement
29 diversified alternatives to institutionalization when such
30 alternatives can be safely employed. The analysis shall
31 include an assessment of current ~~pretrial intervention,~~

1 probation, and community control alternatives and their
2 cost-effectiveness with regard to restitution to victims,
3 reimbursements for cost of supervision, and subsequent
4 violations resulting in commitments to the department. Such
5 analysis shall also include an assessment of current use of
6 electronic surveillance of offenders and projected potential
7 for diverting additional categories of offenders from
8 incarceration within the department.

9 Section 7. Subsection (2) of section 944.026, Florida
10 Statutes, is amended to read:

11 944.026 Community-based facilities and programs.--

12 (2)(a) The department shall develop and implement
13 procedures to diagnose offenders prior to sentencing, for the
14 purpose of recommending to the sentencing court suitable
15 candidates for placement in a community-based residential drug
16 treatment facility or probation and restitution center as
17 provided in this section.

18 ~~(b) Pretrial intervention programs in appropriate~~
19 ~~counties to provide early counseling and supervision services~~
20 ~~to specified offenders as provided in s. 948.08.~~

21 Section 8. Paragraph (a) of subsection (8) of section
22 948.03, Florida Statutes, is amended to read:

23 948.03 Terms and conditions of probation or community
24 control.--

25 (8)(a) Whenever an offender is required by the court
26 to participate in any work program under the provisions of
27 this chapter, ~~enters into the pretrial intervention program~~
28 ~~pursuant to s. 948.08,~~ or volunteers to work in a supervised
29 work program conducted by a specified state, county,
30 municipal, or community service organization or to work for
31 the victim, either as an alternative to monetary restitution

1 or as a part of the rehabilitative or community control
2 program, the offender shall be considered an employee of the
3 state for the purposes of chapter 440.

4 Section 9. Subsections (1) and (8) of section 948.08,
5 Florida Statutes, are amended, and subsection (9) is added to
6 that section, to read:

7 948.08 Pretrial intervention program.--

8 (1) The county may ~~department shall~~ supervise pretrial
9 intervention programs for persons charged with a crime, before
10 or after any information has been filed or an indictment has
11 been returned in the circuit court. Such programs shall
12 provide appropriate counseling, education, supervision, and
13 medical and psychological treatment as available and when
14 appropriate for the persons released to such programs.

15 (8) The county ~~department~~ may contract for the
16 services and facilities necessary to operate pretrial
17 intervention programs.

18 (9) Persons who were under pretrial intervention
19 supervision with the department on July 1, 2000, shall have
20 their cases returned to the state attorney for further action.

21 Section 10. Section 948.09, Florida Statutes, is
22 amended to read:

23 948.09 Payment for cost of supervision and
24 rehabilitation.--

25 (1)(a)1. Any person ordered by the court, the
26 Department of Corrections, or the parole commission to be
27 placed on probation, drug offender probation, community
28 control, parole, control release, provisional release
29 supervision, or conditional release supervision under chapter
30 944, chapter 945, chapter 947, chapter 948, or chapter 958, ~~or~~
31 ~~in a pretrial intervention program,~~ must, as a condition of

1 any placement, pay the department a total sum of money equal
2 to the total month or portion of a month of supervision times
3 the court-ordered amount, but not to exceed the actual per
4 diem cost of the supervision. The department shall adopt rules
5 by which an offender who pays in full and in advance of
6 regular termination of supervision may receive a reduction in
7 the amount due. The rules shall incorporate provisions by
8 which the offender's ability to pay is linked to an
9 established written payment plan. Funds collected from felony
10 offenders may be used to offset costs of the Department of
11 Corrections associated with community supervision programs,
12 subject to appropriation by the Legislature.

13 2. In addition to any other contribution or surcharge
14 imposed by this section, each felony offender assessed under
15 this paragraph shall pay a \$2-per-month surcharge to the
16 department. The surcharge shall be deemed to be paid only
17 after the full amount of any monthly payment required by the
18 established written payment plan has been collected by the
19 department. These funds shall be used by the department to pay
20 for correctional probation officers' training and equipment,
21 including radios, and firearms training, firearms, and
22 attendant equipment necessary to train and equip officers who
23 choose to carry a concealed firearm while on duty. Nothing in
24 this subparagraph shall be construed to limit the department's
25 authority to determine who shall be authorized to carry a
26 concealed firearm while on duty, or to limit the right of a
27 correctional probation officer to carry a personal firearm
28 approved by the department.

29 (b) Any person placed on misdemeanor probation by a
30 county court must contribute not less than \$40 per month, as
31

1 decided by the sentencing court, to the court-approved public
2 or private entity providing misdemeanor supervision.

3 (2) Any person being electronically monitored by the
4 department as a result of placement on community control shall
5 be required to pay a \$1-per-day surcharge in addition to the
6 cost of supervision fee as directed by the sentencing court.
7 The surcharge shall be deposited in the Operating Trust Fund
8 to be appropriated by the Legislature for use ~~used~~ by the
9 department for purchasing and maintaining electronic
10 monitoring devices.

11 (3) Any failure to pay contribution as required under
12 this section may constitute a ground for the revocation of
13 probation by the court, the revocation of parole or
14 conditional release by the Parole Commission, or the
15 revocation of control release by the Control Release
16 Authority, ~~or removal from the pretrial intervention program~~
17 ~~by the state attorney~~. The Department of Corrections may
18 exempt a person from the payment of all or any part of the
19 contribution if it finds any of the following factors to
20 exist:

21 (a) The offender has diligently attempted, but has
22 been unable, to obtain employment which provides him or her
23 sufficient income to make such payments.

24 (b) The offender is a student in a school, college,
25 university, or course of vocational or technical training
26 designed to fit the student for gainful employment.
27 Certification of such student status shall be supplied to the
28 Secretary of Corrections by the educational institution in
29 which the offender is enrolled.

30
31

1 (c) The offender has an employment handicap, as
2 determined by a physical, psychological, or psychiatric
3 examination acceptable to, or ordered by, the secretary.

4 (d) The offender's age prevents him or her from
5 obtaining employment.

6 (e) The offender is responsible for the support of
7 dependents, and the payment of such contribution constitutes
8 an undue hardship on the offender.

9 (f) The offender has been transferred outside the
10 state under an interstate compact adopted pursuant to chapter
11 949.

12 (g) There are other extenuating circumstances, as
13 determined by the secretary.

14 (4) In addition to the contribution required under
15 subsection (1), the department may provide a maximum payment
16 of \$10 per month for each misdemeanor probationer who is
17 contributing \$10 per month to the court-approved public or
18 private entity which is providing him or her with misdemeanor
19 supervision or rehabilitation. The \$10 payment set forth
20 herein shall only be for first degree misdemeanors, petit
21 ~~petty~~ theft, and worthless checks. The department shall make
22 such payment to the court-approved public or private entity
23 which is providing supervision to the offender under this
24 section. Such payment shall be implemented through a contract
25 to be entered into by the Secretary of Corrections and the
26 entity. Terms of the contract shall state, but are not limited
27 to, the extent of the services to be rendered by the entity
28 providing supervision or rehabilitation. In addition, the
29 entity shall supply the department with a monthly report
30 documenting the acceptance of each offender placed under its
31 supervision by the court, documenting the payment of the

1 required contribution by each offender under supervision or
2 rehabilitation, and notifying the department of all offenders
3 for whom supervision or rehabilitation will be terminated.
4 Supervisory records of the entity shall be open to inspection
5 upon the request of the department or its agents.

6 (5) As a condition of an interstate compact adopted
7 pursuant to chapter 949, the department shall require each
8 out-of-state probationer or parolee transferred to this state
9 to contribute not less than \$30 or more than the cost of
10 supervision, certified by the Department of Corrections, per
11 month to defray the cost incurred by this state as a result of
12 providing supervision and rehabilitation during the period of
13 supervision.

14 (6) In addition to any other required contributions,
15 the department, at its discretion, may require offenders under
16 any form of supervision to submit to and pay for urinalysis
17 testing to identify drug usage as part of the rehabilitation
18 program. Any failure to make such payment, or participate,
19 may be considered a ground for revocation by the court, the
20 Parole Commission, or the Control Release Authority, ~~or for~~
21 ~~removal from the pretrial intervention program by the state~~
22 ~~attorney~~. The department may exempt a person from such
23 payment if it determines that any of the factors specified in
24 subsection (3) exist.

25 (7) The department shall establish a payment plan for
26 all costs ordered by the courts for collection by the
27 department and a priority order for payments, except that
28 victim restitution payments authorized under s. 948.03(1)(e)
29 take precedence over all other court-ordered payments. The
30 department is not required to disburse cumulative amounts of
31

1 less than \$10 to individual payees established on this payment
2 plan.

3 Section 11. This act shall take effect July 1, 2001.

4

5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 1002

8

8 Transfers the Batterers' Intervention Program from the
9 Department of Corrections (DOC) to the Department of Children
and Family Services(DCF);

10 Removes the Department of Corrections' responsibility for
preparing sentencing scoresheets; and

11

12 Deletes the Department of Corrections' responsibility for
operating statewide pretrial intervention programs (PTI).

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31