

1
2 An act relating to corrections; revising
3 provisions relating to leased or managed work
4 programs to conform to current operations and
5 applications; amending ss. 946.502, 946.5025,
6 946.5026, 946.503, 946.506, 946.509, 946.511,
7 946.514, 946.516, 946.518, 946.520, F.S.;
8 conforming internal cross-references; deleting
9 obsolete provisions; clarifying a definition;
10 changing a reporting date; amending s. 957.04,
11 F.S., to conform a cross-reference; providing a
12 declaration of important state interest;
13 creating s. 946.525, F.S.; establishing
14 participation requirements; amending s. 948.09,
15 F.S.; revising the amount of the surcharge paid
16 to the Department of Corrections by offenders
17 placed on community control; providing an
18 effective date.

19

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

21

22 Section 1. Subsections (2), (3), and (4) of section
23 946.502, Florida Statutes, are amended to read:24 946.502 Legislative intent with respect to operation
25 of correctional work programs.--26 (2) It is further the intent of the Legislature that,
27 once one such nonprofit corporation is organized, no other
28 nonprofit corporation be organized for the purpose of carrying
29 out this part ~~ss. 946.502-946.518~~. In carrying out this part
30 ~~ss. 946.502-946.518~~, the corporation is not an "agency" within
31 the meaning of s. 20.03(11).

1 (3) It is further the intent of the Legislature that,
2 ~~by July 1, 1985,~~ the corporation shall lease ~~have leased~~ all
3 correctional work programs from the department.

4 (4) It is further the intent of the Legislature that
5 the state shall have a continuing interest in assuring
6 continuity and stability in the operation of correctional work
7 programs and that this part ~~ss. 946.502-946.518~~ be construed
8 in furtherance of such goals.

9 Section 2. Section 946.5025, Florida Statutes, is
10 amended to read:

11 946.5025 Authorization of corporation to enter into
12 contracts.--The corporation established under this part
13 ~~chapter~~ may enter into contracts to operate correctional work
14 programs with any county or municipal authority that operates
15 a correctional facility or with a contractor authorized under
16 chapter 944 or chapter 957 to operate a private correctional
17 facility. The corporation has the same powers, privileges, and
18 immunities in carrying out such contracts as it has under this
19 chapter.

20 Section 3. Section 946.5026, Florida Statutes, is
21 amended to read:

22 946.5026 Sovereign immunity in tort actions.--The
23 provisions of s. 768.28 shall be applicable to the corporation
24 established under this part ~~pursuant to s. 946.504(1)~~, which
25 is deemed to be a corporation primarily acting as an
26 instrumentality of the state.

27 Section 4. Section 946.503, Florida Statutes, is
28 amended to read:

29 946.503 Definitions to be used with respect to
30 correctional work programs.--As used in this part ~~ss.~~
31 ~~946.502-946.518~~, the term:

1 (1) "Corporation" means the private nonprofit
2 corporation established pursuant to s. 946.504(1), or a
3 private nonprofit corporation whose sole member is the private
4 nonprofit corporation established pursuant to s. 946.504(1),
5 and at least 51 percent of the board of which contains members
6 of the board of directors of the private nonprofit corporation
7 established pursuant to s. 946.504(1), to carry out this part
8 ~~ss. 946.502-946.518.~~

9 (2) "Correctional work program" means any program
10 presently a part of the prison industries program operated by
11 the department or any other correctional work program carried
12 on at any state correctional facility presently or in the
13 future, but the term does not include any program authorized
14 by s. 945.091 or s. 946.40.

15 (3) "Department" means the Department of Corrections.

16 (4) "Facilities" means the buildings and land used in
17 the operation of an industry program on state property.

18 (5) "Inmate" means any person incarcerated within any
19 state, county, municipal, or private correctional facility.

20 (6) "Private correctional facility" means a facility
21 authorized by chapter 944 or chapter 957.

22 Section 5. Section 946.506, Florida Statutes, is
23 amended to read:

24 946.506 Modification or termination of correctional
25 work program by the corporation.--This part does Sections
26 ~~946.502-946.518 do~~ not prevent the corporation from modifying,
27 altering, or terminating any correctional work program, once
28 assumed, so long as the corporation is otherwise carrying out
29 the provisions of this part ~~ss. 946.502-946.518.~~

30 Section 6. Subsection (1) of section 946.509, Florida
31 Statutes, is amended to read:

1 946.509 Insurance of property leased or acquired by
2 the corporation.--

3 (1) The State Risk Management Trust Fund created under
4 s. 284.30 shall insure all property eligible for coverage
5 under part I of chapter 284 which is leased by the department
6 to the corporation or which is subsequently acquired and owned
7 or leased by the corporation and subject to the reversionary
8 ownership interest of the state established in s. 946.505.

9 Section 7. Subsection (1) of section 946.511, Florida
10 Statutes, is amended to read:

11 946.511 Provision of inmate labor to operate
12 correctional work programs; policies and procedures.--

13 (1) Inmates shall be evaluated and identified during
14 the reception process to determine basic literacy, employment
15 skills, academic skills, vocational skills, and remedial and
16 rehabilitative needs. The evaluation shall prescribe
17 education, work, and work-training for each inmate. Assignment
18 to programs shall be based on the evaluation and the length of
19 time the inmate will be in the custody of the department.
20 Assignment to programs shall be reviewed every 6 months to
21 ensure proper placement based on bed space availability.
22 Assignment of inmates shall be governed by the following
23 objectives and priorities:

24 (a) Inmates shall be assigned to meet the needs of the
25 work requirements of the Department of Corrections, including
26 essential operational functions and revenue-generating
27 contracts.

28 (b) Inmates shall be assigned to correctional
29 education.
30
31

1 (c) Inmates shall be assigned to meet all other work
2 requirements of the department, including remaining
3 operational functions and nonrevenue-generating contracts.
4

5 As used in this subsection, the term "revenue-generating
6 contracts" includes contracts with the Department of
7 Transportation, the corporation authorized to conduct the
8 correctional work programs under this part ~~FF~~, the corporation
9 and private sector businesses operating programs authorized
10 under s. 946.523 ~~946.006(3)~~, and federal, state, or local
11 governmental entities or subdivisions authorized under s.
12 944.10(7).

13 Section 8. Subsections (1) and (2) of section 946.514,
14 Florida Statutes, are amended to read:

15 946.514 Civil rights of inmates; inmates not state
16 employees; liability of corporation for inmate injuries.--

17 (1) Nothing contained in this part ~~ss. 946.502-946.517~~
18 is intended to restore in whole or in part the civil rights of
19 inmates.

20 (2) No inmate compensated under this part ~~ss.~~
21 ~~946.502-946.517~~ or by the corporation or the department shall
22 be considered as an employee of the state, the department, or
23 the corporation.

24 Section 9. Subsection (1) of section 946.516, Florida
25 Statutes, is amended to read:

26 946.516 Report to Governor, Legislature, and Auditor
27 General by the corporation; Department of Corrections report;
28 annual financial audit.--

29 (1) The corporation shall submit to the Governor and
30 the Legislature, on or before July ~~January~~ 1 of each year, a
31 report on the status of the correctional work programs,

1 including, but not limited to, the proposed use of the profits
2 from such programs, a breakdown of the amount of noninmate
3 labor used, work subcontracted to other vendors, use of
4 consultants, finished goods purchased for resale, and the
5 number of inmates working in the correctional work programs at
6 the time of such report. In addition, the corporation shall
7 submit to the department, the Governor, the Legislature, and
8 the Auditor General an annual financial audit report and such
9 other information as may be requested by the Legislature,
10 together with recommendations relating to provisions for
11 reasonable tax incentives to private enterprises which employ
12 inmates, parolees, or former inmates who have participated in
13 correctional work programs.

14 Section 10. Section 946.518, Florida Statutes, is
15 amended to read:

16 946.518 Sale of goods made by prisoners; when
17 prohibited, when permitted.--Goods, wares, or merchandise
18 manufactured or mined in whole or in part by prisoners (except
19 prisoners on parole or probation) may not be sold or offered
20 for sale in this state by any person or by any federal
21 authority or state or political subdivision thereof; however,
22 this section does not forbid the sale, exchange, or
23 disposition of such goods within the limitations set forth in
24 s. 946.515, s. 946.523, or s. 946.524.

25 Section 11. Section 946.520, Florida Statutes, is
26 amended to read:

27 946.520 Assignment of inmates by Department of
28 Corrections.--

29 (1) The department shall exert its best efforts to
30 assign inmates to the corporation, or the private sector
31 business authorized under this part ~~of this chapter~~, who

1 have not less than 1 nor more than 5 years remaining before
2 their tentative release dates. Beginning January 1, 1998, the
3 department shall maintain the assignment of at least 60
4 percent of inmates to all correctional work programs
5 collectively to the corporation, or to the private sector
6 business authorized under this part ~~of this chapter~~, who
7 have less than 10 years remaining before their tentative
8 release dates. This 60-percent requirement does not apply to
9 any correctional work program, or private sector business
10 authorized under this part ~~of this chapter~~, within an
11 institution for any year in which, as of January 1 of that
12 year, the average years remaining before the tentative release
13 date of all inmates assigned to that institution exceeds 12
14 years.

15 (2) The department may not remove an inmate once
16 assigned to the corporation or to the private sector business
17 authorized under this part ~~of this chapter~~, except upon
18 request of or consent of such corporation or private sector
19 business or for the purposes of population management, for
20 inmate conduct that may subject the inmate to disciplinary
21 confinement or loss of gain-time, or for security and safety
22 concerns specifically set forth in writing to the corporation
23 or private sector business.

24 Section 12. Paragraph (f) of subsection (1) of section
25 957.04, Florida Statutes, is amended to read:

26 957.04 Contract requirements.--

27 (1) A contract entered into under this chapter for the
28 operation of private correctional facilities shall maximize
29 the cost savings of such facilities and shall:

30 (f) Require the contractor to be responsible for a
31 range of dental, medical, and psychological services; diet;

1 education; and work programs at least equal to those provided
2 by the department in comparable facilities. The work and
3 education programs must be designed to reduce recidivism, and
4 include opportunities to participate in such work programs as
5 authorized pursuant to s. 946.523 ~~946.006~~.

6 Section 13. The Legislature finds that a proper and
7 legitimate state purpose is served when employees of the
8 corporation established under this part, which is primarily an
9 instrumentality of the state and carries out a vital state
10 purpose under the direction of a board of directors which is
11 appointed by the Governor and confirmed by the Senate, are
12 given additional choices for the basic protections afforded by
13 group health and prescription drug coverage programs that also
14 permit the continued operation of a competitive marketplace
15 and assure that affordable and available coverage is extended
16 to all interested parties. Therefore, the Legislature
17 determines and declares that section 946.525, Florida
18 Statutes, fulfills an important state interest.

19 Section 14. Section 946.525, Florida Statutes, is
20 created to read:

21 946.525 Participation by the corporation in the state
22 group health insurance and prescription drug programs.--

23 (1) The board of directors of the corporation
24 established under this part may apply for participation in the
25 state group health insurance program authorized in s. 110.123
26 and the prescription drug coverage program authorized by s.
27 110.12315 by submitting an application along with a \$500
28 nonrefundable fee to the Department of Management Services.

29 (2) As a prerequisite to the adoption of a resolution
30 for participation in the state group health insurance and
31 prescription drug coverage program, the corporation shall seek

1 proposals to provide health insurance and prescription drug
2 coverage which coverages are equivalent to those offered
3 currently by the corporation and coverages equivalent to the
4 state group health insurance and prescription drug coverage
5 program. The corporation shall review and consider all
6 responsive proposals prior to the adoption of any resolution
7 for participation in the state group health insurance and
8 prescription drug coverage program.

9 (3) If the Department of Management Services
10 determines that the corporation is eligible to enroll, the
11 corporation must agree to the following terms and conditions:

12 (a) The minimum enrollment or contractual period will
13 be 3 years.

14 (b) The corporation must pay to the Department of
15 Management Services an initial administrative fee not less
16 than \$2.61 per enrollee per month, or such other amount
17 established annually to fully reimburse the Department of
18 Management Services for its costs.

19 (c) Termination of participation of the corporation
20 requires written notice 1 year before the termination date.

21 (d) If participation is terminated, the corporation
22 may not reapply for participation for a period of 2 years.

23 (e) The corporation shall reimburse the state for 100
24 percent of its costs, including administrative costs.

25 (f) If the corporation fails to make the payments
26 required by this section to fully reimburse the state, the
27 Department of Revenue or the Department of Banking and Finance
28 shall, upon the request of the Department of Management
29 Services, deduct the amount owed by the employer from any
30 funds to be distributed by it to the corporation. The amounts
31 so deducted shall be transferred to the Department of

1 Management Services for further distribution to the trust
2 funds in accordance with this chapter.

3 (g) The corporation shall furnish the Department of
4 Management Services any information requested by the
5 Department of Management Services which the Department of
6 Management Services considers necessary to administer the
7 state group health insurance program and the prescription drug
8 program.

9 (4) The provisions of ss. 624.436-624.446 do not apply
10 to the State Group Insurance Program or to this section.

11 (5) The Department of Management Services may adopt
12 rules necessary to administer this section.

13 Section 15. The Department of Management Services
14 shall request from the Internal Revenue Service, by October 1,
15 2001, a written determination letter and a favorable private
16 letter ruling, stating that the State Group Self-Insurance
17 Program, as amended by section 946.525, Florida Statutes, is a
18 facially qualified plan. The department shall notify the
19 President of the Senate and the Speaker of the House of
20 Representatives within 30 days after the receipt of the
21 favorable or unfavorable letters.

22 Section 16. Subsection (2) of section 948.09, Florida
23 Statutes, is amended to read:

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

26 (2) Any person being electronically monitored by the
27 department as a result of placement on community control shall
28 be required to pay as a \$1-per-day surcharge an amount that
29 may not exceed the full cost of the monitoring service in
30 addition to the cost of supervision fee as directed by the
31 sentencing court. The surcharge shall be deposited in the

1 Operating Trust Fund to be used by the department for
2 purchasing and maintaining electronic monitoring devices.

3 Section 17. This act shall take effect upon becoming a
4 law, except that section 14 shall take effect only when the
5 Department of Management Services receives the favorable
6 letters requested by section 15. If the favorable letters are
7 not received, section 14 shall not take effect.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31