

By Representative Needelman

1                                   A bill to be entitled  
2           An act relating to youthful offenders; amending  
3           s. 958.04, F.S., relating to judicial  
4           disposition of youthful offenders; providing  
5           that the court may not sentence as youthful  
6           offenders certain offenders who have pled nolo  
7           contendere or guilty to, or been found guilty  
8           of, capital felonies, life felonies,  
9           first-degree felonies, or second-degree  
10          felonies involving the use or threatened use of  
11          force or violence; increasing the maximum  
12          period of commitment of a youthful offender to  
13          the custody of the Department of Corrections or  
14          maximum period of incarceration or placement  
15          under supervision on probation or community  
16          control; removing legislative declaration with  
17          respect to construction of a basic training  
18          program facility; reenacting s. 958.03(5),  
19          F.S., relating to the definition of the term  
20          "youthful offender," s. 958.046, F.S., relating  
21          to placement in county-operated boot camp  
22          programs for youthful offenders, and s.  
23          958.11(4), F.S., relating to designation of  
24          institutions and programs for youthful  
25          offenders and assignment from youthful offender  
26          institutions and programs, to incorporate the  
27          amendment to s. 958.04, F.S., in references  
28          thereto; amending s. 951.231, F.S.; conforming  
29          an obsolete reference to provisions relating to  
30          mandatory participation in the youthful  
31          offender basic training program under certain

1           circumstances; amending s. 958.045, F.S.,  
2           relating to youthful offender basic training  
3           program; revising the sanctions for a youthful  
4           offender in the basic training program who  
5           becomes unmanageable; allowing the department  
6           to revoke the offender's gain-time, to  
7           terminate the offender's participation in the  
8           program, and to return the offender to the  
9           general population of inmates in the  
10          correctional system; providing for alternative  
11          placement on probation or community control of  
12          an offender who has completed the basic  
13          training program; providing for the offender to  
14          remain on community control upon release from a  
15          community residential program; providing for  
16          revocation of community control and sentencing  
17          of the offender if the offender violates the  
18          conditions of community control; revising a  
19          presumption relating to a departmental request  
20          that a court place a youthful offender in the  
21          program; modifying release procedures;  
22          conforming terminology; providing an effective  
23          date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Section 958.04, Florida Statutes, is  
28 amended to read:

29           958.04 Judicial disposition of youthful offenders.--

30           (1) The court may sentence as a youthful offender any  
31 person:

1 (a) Who is at least 18 years of age or who has been  
2 transferred for prosecution to the criminal division of the  
3 circuit court pursuant to chapter 985;

4 (b) Who is found guilty of or who has tendered, and  
5 the court has accepted, a plea of nolo contendere or guilty to  
6 a crime which is, under the laws of this state, a felony if  
7 such crime was committed before the defendant's 21st birthday;  
8 and

9 (c) Who has not previously been classified as a  
10 youthful offender under the provisions of this act; however, a  
11 ~~no~~ person who has pled nolo contendere or guilty to, or been  
12 found guilty of, a capital felony, or life felony,  
13 first-degree felony, or second-degree felony involving the use  
14 or attempted use of force or violence may not be sentenced as  
15 a youthful offender under this act. In addition, a person who  
16 is subject to s. 775.087(2) and (3) may not be sentenced as a  
17 youthful offender.

18 (2) In lieu of other criminal penalties authorized by  
19 law and notwithstanding any imposition of consecutive  
20 sentences, the court shall dispose of the criminal case as  
21 follows:

22 (a) The court may place a youthful offender under  
23 supervision on probation or in a community control program,  
24 with or without an adjudication of guilt, under such  
25 conditions as the court may lawfully impose for a period of  
26 not more than 8 ~~6~~ years. Such a period of supervision shall  
27 not exceed the maximum sentence for the offense for which the  
28 youthful offender was found guilty.

29 (b) The court may impose a period of incarceration as  
30 a condition of probation or community control, which period of  
31 incarceration shall be served in either a county facility, a

1 department probation and restitution center, or a community  
2 residential facility which is owned and operated by any public  
3 or private entity providing such services. No youthful  
4 offender may be required to serve a period of incarceration in  
5 a community correctional center as defined in s. 944.026.  
6 Admission to a department facility or center shall be  
7 contingent upon the availability of bed space and shall take  
8 into account the purpose and function of such facility or  
9 center. Placement in such a facility or center shall not  
10 exceed 364 days.

11 (c) The court may impose a split sentence whereby the  
12 youthful offender is to be placed on probation or community  
13 control upon completion of any specified period of  
14 incarceration; however, if the incarceration period is to be  
15 served in a department facility other than a probation and  
16 restitution center or community residential facility, such  
17 period shall be for not less than 1 year or more than 4 years.  
18 The period of probation or community control shall commence  
19 immediately upon the release of the youthful offender from  
20 incarceration. The period of incarceration imposed or served  
21 and the period of probation or community control, when added  
22 together, shall not exceed 8 ~~6~~ years.

23 (d) The court may commit the youthful offender to the  
24 custody of the department for a period of not more than 8 ~~6~~  
25 years, provided that any such commitment shall not exceed the  
26 maximum sentence for the offense for which the youthful  
27 offender has been convicted. Successful participation in the  
28 youthful offender program by an offender who is sentenced as a  
29 youthful offender by the court pursuant to this section, or is  
30 classified as such by the department, may result in a  
31 recommendation to the court, by the department, for a

1 modification or early termination of probation, community  
2 control, or the sentence at any time prior to the scheduled  
3 expiration of such term. When a modification of the sentence  
4 results in the reduction of a term of incarceration, the court  
5 may impose a term of probation or community control which,  
6 when added to the term of incarceration, shall not exceed the  
7 original sentence imposed.

8 (3) The provisions of this section shall not be used  
9 to impose a greater sentence than the permissible sentence  
10 range as established by the Criminal Punishment Code pursuant  
11 to chapter 921 unless reasons are explained in writing by the  
12 trial court judge which reasonably justify departure. A  
13 sentence imposed outside of the code is subject to appeal  
14 pursuant to s. 924.06 or s. 924.07.

15 ~~(4) Due to severe prison overcrowding, the Legislature~~  
16 ~~declares the construction of a basic training program facility~~  
17 ~~is necessary to aid in alleviating an emergency situation.~~

18 (4)(5) The department shall provide a special training  
19 program for staff selected for the basic training program.

20 Section 2. For the purpose of incorporating the  
21 amendment to section 958.04, Florida Statutes, in references  
22 thereto, subsection (5) of section 958.03, Florida Statutes,  
23 is reenacted to read:

24 958.03 Definitions.--As used in this act:

25 (5) "Youthful offender" means any person who is  
26 sentenced as such by the court or is classified as such by the  
27 department pursuant to s. 958.04.

28 Section 3. For the purpose of incorporating the  
29 amendment to section 958.04, Florida Statutes, in references  
30 thereto, section 958.046, Florida Statutes, is reenacted to  
31 read:

1           958.046 Placement in county-operated boot camp  
2 programs for youthful offenders.--In counties where there are  
3 county-operated youthful offender boot camp programs, other  
4 than boot camps described in s. 958.04 or s. 985.309, the  
5 court may sentence a youthful offender to such a boot camp.  
6 In county-operated youthful offender boot camp programs,  
7 juvenile offenders shall not be commingled with youthful  
8 offenders.

9           Section 4. For the purpose of incorporating the  
10 amendment to section 958.04, Florida Statutes, in references  
11 thereto, subsection (4) of section 958.11, Florida Statutes,  
12 is reenacted to read:

13           958.11 Designation of institutions and programs for  
14 youthful offenders; assignment from youthful offender  
15 institutions and programs.--

16           (4) The Office of the Assistant Secretary for Youthful  
17 Offenders shall continuously screen all institutions,  
18 facilities, and programs for any inmate who meets the  
19 eligibility requirements for youthful offender designation  
20 specified in s. 958.04(1)(a) and (c) whose age does not exceed  
21 24 years and whose total length of sentence does not exceed 10  
22 years, and the department may classify and assign as a  
23 youthful offender any inmate who meets the criteria of this  
24 subsection.

25           Section 5. Paragraph (c) of subsection (1) of section  
26 951.231, Florida Statutes, is amended to read:

27           951.231 County residential probation program.--

28           (1) Any prisoner who has been sentenced under s.  
29 921.18 to serve a sentence in a county residential probation  
30 center as described in s. 951.23 shall:

31

1           (c) Participate in and complete the program required  
2 by s. 958.045(1)~~s. 958.04(4)~~, if required by the supervisor  
3 of the center.

4           Section 6. Section 958.045, Florida Statutes, is  
5 amended to read:

6           958.045 Youthful offender basic training program.--

7           (1) The department shall develop and implement a basic  
8 training program for youthful offenders sentenced or  
9 classified by the department as youthful offenders pursuant to  
10 this chapter. The period of time to be served at the basic  
11 training program shall be no less than 120 days.

12           (a) The program shall include marching drills,  
13 calisthenics, a rigid dress code, manual labor assignments,  
14 physical training with obstacle courses, training in  
15 decisionmaking and personal development, general education  
16 development and adult basic education courses, and drug  
17 counseling and other rehabilitation programs.

18           (b) The department shall adopt rules governing the  
19 administration of the youthful offender basic training  
20 program, requiring that basic training participants complete a  
21 structured disciplinary program, and allowing for a  
22 restriction on general inmate population privileges.

23           (2) Upon receipt of youthful offenders, the department  
24 shall screen offenders for the basic training program. To  
25 participate, an offender must have no physical limitations  
26 that preclude participation in strenuous activity, must not be  
27 impaired, and must not have been previously incarcerated in a  
28 state or federal correctional facility. In screening offenders  
29 for the basic training program, the department shall consider  
30 the offender's criminal history and the possible  
31 rehabilitative benefits of "shock" incarceration. If an

1 offender meets the specified criteria and space is available,  
2 the department shall request, in writing from the sentencing  
3 court, approval for the offender to participate in the basic  
4 training program. If the person is classified by the  
5 department as a youthful offender and the department is  
6 requesting approval from the sentencing court for placement in  
7 the program, the department shall, at the same time, notify  
8 the state attorney that the offender is being considered for  
9 placement in the basic training program. The notice must  
10 explain that the purpose of such placement is diversion from  
11 lengthy incarceration when a short "shock" incarceration could  
12 produce the same deterrent effect, and that the state attorney  
13 may, within 14 days after the mailing of the notice, notify  
14 the sentencing court in writing of objections, if any, to the  
15 placement of the offender in the basic training program. The  
16 sentencing court shall notify the department in writing of  
17 placement approval no later than 21 days after receipt of the  
18 department's request for placement of the youthful offender in  
19 the basic training program. Failure to notify the department  
20 within 21 days shall be considered a denial ~~an approval~~ by the  
21 sentencing court of the department's request for placing the  
22 youthful offender in the basic training program. Each state  
23 attorney may develop procedures for notifying the victim that  
24 the offender is being considered for placement in the basic  
25 training program.

26 (3) The program shall provide a short incarceration  
27 period of rigorous training to offenders who require a greater  
28 degree of supervision than community control or probation  
29 provides. Basic training programs may be operated in secure  
30 areas in or adjacent to an adult institution notwithstanding  
31 s. 958.11. The program is not intended to divert offenders



1 away from probation or community control but to divert them  
2 from long periods of incarceration when a short "shock"  
3 incarceration could produce the same deterrent effect.

4 (4) Upon admittance to the department, an educational  
5 and substance abuse assessment shall be performed on each  
6 youthful offender. Upon admittance to the basic training  
7 program, each offender shall have a full substance abuse  
8 assessment to determine the offender's need for substance  
9 abuse treatment. The educational assessment shall be  
10 accomplished through the aid of the Test of Adult Basic  
11 Education or any other testing instrument approved by the  
12 Department of Education, as appropriate. Each offender who has  
13 not obtained a high school diploma shall be enrolled in an  
14 adult education program designed to aid the offender in  
15 improving his or her academic skills and earning a high school  
16 diploma. Further assessments of the prior vocational skills  
17 and future career education shall be provided to the offender.  
18 A periodic evaluation shall be made to assess the progress of  
19 each offender, and upon completion of the basic training  
20 program the assessment and information from the department's  
21 record of each offender shall be transferred to the  
22 appropriate community residential program.

23 (5)(a) If an offender in the basic training program  
24 becomes unmanageable, the department may revoke the offender's  
25 gain-time, terminate the offender from the program, and return  
26 the offender to ~~and place the offender in disciplinary~~  
27 ~~confinement for up to 30 days. Upon completion of the~~  
28 ~~disciplinary process, the offender shall be readmitted to the~~  
29 ~~basic training program, except for an offender who has~~  
30 ~~committed or threatened to commit a violent act. If the~~  
31 ~~offender is terminated from the program, the department may~~

1 ~~place the offender in~~ the general population of inmates in the  
2 correctional system to complete the remainder of the  
3 offender's sentence. Any period of time in which the offender  
4 is unable to participate in the basic training activities may  
5 be excluded from the specified time requirements in the  
6 program.

7 (b) If the offender is unable to participate in the  
8 basic training activities due to medical reasons, certified  
9 medical personnel shall examine the offender and shall consult  
10 with the basic training program director concerning the  
11 offender's termination from the program.

12 (c) The portion of the sentence served prior to  
13 placement in the basic training program may not be counted  
14 toward program completion. Upon the offender's completion of  
15 the basic training program, the department shall submit a  
16 report to the court that describes the offender's performance.  
17 If the offender's performance has been satisfactory, the court  
18 shall issue an order modifying the sentence imposed and  
19 placing the offender on probation or community control or a  
20 combination thereof. The term of probation or community  
21 control may include placement in a community residential  
22 program. If the offender violates the conditions of probation  
23 or community control, the court may revoke probation or  
24 community control and impose any sentence that it might have  
25 originally imposed as a condition of probation or community  
26 control.

27 (6)(a) Upon completing the basic training program, an  
28 offender shall be transferred to a community residential  
29 program and reside there for a term designated by department  
30 rule. If the basic training program director determines that  
31 the offender is not suitable for the community residential

1 program but is suitable for an alternative postrelease program  
2 or release plan, within 30 days prior to program completion  
3 the department shall evaluate the offender's needs and  
4 determine an alternative postrelease program or plan. The  
5 department's consideration shall include, but not be limited  
6 to, the offender's employment, residence, family situation,  
7 and probation or postrelease supervision obligations. Upon the  
8 approval of the department, the offender shall be released to  
9 an alternative postrelease program or plan.

10 (b) While in the community residential program, as  
11 appropriate, the offender shall engage in gainful employment,  
12 and if any, shall pay restitution to the victim. If  
13 appropriate, the offender may enroll in substance abuse  
14 counseling, and if suitable, shall enroll in a general  
15 education development or adult basic education class for the  
16 purpose of attaining a high school diploma. Upon release from  
17 the community residential program, the offender shall remain  
18 on probation, community control, or other postrelease  
19 supervision, and abide by the conditions of the offender's  
20 probation, community control, or postrelease supervision. If,  
21 upon transfer from the community residential program, the  
22 offender has not completed the enrolled educational program,  
23 the offender shall continue the educational program until  
24 completed. If the offender fails to complete the program, the  
25 department may request the court or the control release  
26 authority to execute an order returning the offender back to  
27 the community residential program until completion of the  
28 program.

29 (7) The department shall implement the basic training  
30 program to the fullest extent feasible within the provisions  
31 of this section.

1           (8)(a) The Assistant Secretary for Youthful Offenders  
2 shall continuously screen all institutions, facilities, and  
3 programs for any inmate who meets the eligibility requirements  
4 for youthful offender designation specified in s. 958.04,  
5 whose age does not exceed 24 years.

6           (b) The department may classify and assign as a  
7 youthful offender any inmate who meets the criteria of s.  
8 958.04.

9           ~~(b)~~ A youthful offender who is designated as such by  
10 the department and assigned to the basic training program must  
11 be eligible for control release pursuant to s. 947.146.

12           (c) The department shall work cooperatively with the  
13 Control Release Authority or the Parole Commission to effect  
14 the release of an offender who has successfully completed the  
15 requirements of the basic training program.

16           (d) Upon an offender's completion of the basic  
17 training program, the department shall submit a report to the  
18 releasing authority that describes the offender's performance.  
19 If the performance has been satisfactory, the release  
20 authority shall, upon receipt of a court order modifying the  
21 offender's sentence, establish a release date that is within  
22 20 ~~30~~ days following receipt of the court order ~~program~~  
23 ~~completion~~. As a condition of release, the offender shall be  
24 placed in a community residential program as provided in this  
25 section or on community supervision as provided in chapter  
26 947, and shall be subject to the conditions established  
27 therefor.

28           (9) Upon commencement of the community residential  
29 program, the department shall submit annual reports to the  
30 Governor, the President of the Senate, and the Speaker of the  
31 House of Representatives detailing the extent of

1 implementation of the basic training program and the community  
2 residential program, and outlining future goals and any  
3 recommendation the department has for future legislative  
4 action.

5 ~~(10) Due to serious and violent crime, the Legislature~~  
6 ~~declares the construction of a basic training facility is~~  
7 ~~necessary to aid in alleviating an emergency situation.~~

8 (10)~~(11)~~ The department shall provide a special  
9 training program for staff selected for the basic training  
10 program.

11 (11)~~(12)~~ The department may develop performance-based  
12 contracts with qualified individuals, agencies, or  
13 corporations for the provision of any or all of the youthful  
14 offender programs.

15 (12)~~(13)~~ An offender in the basic training program is  
16 subject to rules of conduct established by the department and  
17 may have sanctions imposed, including loss of privileges,  
18 restrictions, disciplinary confinement, alteration of release  
19 plans, or other program modifications in keeping with the  
20 nature and gravity of the program violation. Administrative or  
21 protective confinement, as necessary, may be imposed.

22 (13)~~(14)~~ The department may establish a system of  
23 incentives within the basic training program which the  
24 department may use to promote participation in rehabilitative  
25 programs and the orderly operation of institutions and  
26 facilities.

27 (14)~~(15)~~ The department shall develop a system for  
28 tracking recidivism, including, but not limited to, rearrests  
29 and recommitment of youthful offenders, and shall report on  
30 that system in its annual reports of the programs.

31 Section 7. This act shall take effect October 1, 2001.

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LEGISLATIVE SUMMARY

Provides that the court may not sentence as youthful offenders certain offenders who have pled nolo contendere or guilty to, or been found guilty of, capital felonies, life felonies, first-degree felonies, or second-degree felonies involving the use or threatened use of force or violence. Increases from 6 years to 8 years the maximum period of commitment of the youthful offender to the custody of the Department of Corrections or the maximum period of incarceration or placement of the youthful offender under supervision on probation or community control. Removes a legislative declaration with respect to construction of a basic training program facility. Conforms a reference to provisions relating to mandatory participation in the youthful offender basic training program in certain circumstances. Revises the sanctions for a youthful offender in the basic training program who becomes unmanageable. Allows the department to revoke the offender's gain-time, to terminate the offender's participation in the program, and to return the offender to the general population of inmates in the correctional system. Provides for alternative placement on probation or community control of an offender who has completed the basic training program. Provides for the offender to remain on community control upon release from a community residential program. Provides for revocation of community control and sentencing of the offender if the offender violates the conditions of community control. Conforms terminology.