

By Senators Mitchell and Lawson

4-461-01

1 A bill to be entitled
2 An act relating to the Correctional
3 Privatization Commission; abolishing the
4 Correctional Privatization Commission;
5 transferring the powers, duties, personnel,
6 property, and unexpended balances of funds of
7 the Correctional Privatization Commission to
8 the Department of Corrections; repealing ch.
9 957, F.S., the Correctional Privatization
10 Commission Act; amending ss. 394.9151, 395.002,
11 408.036, 943.053, 943.13, 943.133, 944.02,
12 944.023, 944.115, 944.72, 944.8041, 945.215,
13 946.5025, 946.503, F.S.; conforming provisions
14 to changes made by the act; providing an
15 effective date.

16

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

18

19 Section 1. Effective July 1, 2001, the Correctional
20 Privatization Commission, as created in chapter 957, Florida
21 Statutes, is abolished, and all powers, duties, functions,
22 rules, records, personnel, property, and unexpended balances
23 of appropriations, allocations, or other funds of the
24 Correctional Privatization Commission are transferred by a
25 type two transfer, as defined in s. 20.06(2), Florida
26 Statutes, to the Department of Corrections.

27

28 Section 2. Chapter 957, Florida Statutes, consisting
29 of sections 957.01, 957.02, 957.03, 957.04, 957.05, 957.06,
30 957.07, 957.08, 957.09, 957.11, 957.12, 957.125, 957.13,
31 957.14, 957.15, and 957.16, Florida Statutes, is repealed.

31

1 Section 3. Section 394.9151, Florida Statutes, is
2 amended to read:

3 394.9151 Contract authority.--The Department of
4 Children and Family Services may contract with a private
5 entity or state agency for use of and operation of facilities
6 to comply with the requirements of this act. ~~The Department of~~
7 ~~Children and Family Services may also contract with the~~
8 ~~Correctional Privatization Commission as defined in chapter~~
9 ~~957 to issue a request for proposals and monitor contract~~
10 ~~compliance for these services.~~

11 Section 4. Subsection (22) of section 395.002, Florida
12 Statutes, is amended to read:

13 395.002 Definitions.--As used in this chapter:

14 (22) "Mobile surgical facility" is a mobile facility
15 in which licensed health care professionals provide elective
16 surgical care under contract with the Department of
17 ~~Corrections or a private correctional facility operating~~
18 ~~pursuant to chapter 957~~ and in which inmate patients are
19 admitted to and discharged from said facility within the same
20 working day and are not permitted to stay overnight. However,
21 mobile surgical facilities may only provide health care
22 services only to the inmate patients of the Department of
23 ~~Corrections, or inmate patients of a private correctional~~
24 ~~facility operating pursuant to chapter 957,~~and not to the
25 general public.

26 Section 5. Paragraph (j) of subsection (3) of section
27 408.036, Florida Statutes, is amended to read:

28 408.036 Projects subject to review.--

29 (3) EXEMPTIONS.--Upon request, the following projects
30 are subject to exemption from the provisions of subsection
31 (1):

1 (j) For mobile surgical facilities and related health
2 care services provided under contract with the Department of
3 ~~Corrections or a private correctional facility operating~~
4 ~~pursuant to chapter 957.~~

5 Section 6. Subsection (8) of section 943.053, Florida
6 Statutes, is amended to read:

7 943.053 Dissemination of criminal justice information;
8 fees.--

9 (8) Notwithstanding the provisions of s. 943.0525, and
10 any user agreements adopted pursuant thereto, and
11 notwithstanding the confidentiality of sealed records as
12 provided for in s. 943.059, the Department of Corrections
13 shall provide, in a timely manner, copies of the Florida
14 criminal history records for inmates housed in a private state
15 correctional facility to the private entity under contract to
16 operate the facility pursuant to ~~the provisions of s. 944.105~~
17 ~~or s. 957.03~~. The department may assess a charge for the
18 Florida criminal history records pursuant to the provisions of
19 chapter 119. Sealed records received by the private entity
20 under this section remain confidential and exempt from the
21 provisions of s. 119.07(1).

22 Section 7. Section 943.13, Florida Statutes, is
23 amended to read:

24 943.13 Officers' minimum qualifications for employment
25 or appointment.--On or after October 1, 1984, any person
26 employed or appointed as a full-time, part-time, or auxiliary
27 law enforcement officer or correctional officer; on or after
28 October 1, 1986, any person employed as a full-time,
29 part-time, or auxiliary correctional probation officer; and on
30 or after October 1, 1986, any person employed as a full-time,
31 part-time, or auxiliary correctional officer by a private

1 entity under contract to the Department of Corrections or to
2 a county commission must, ~~or to the Correctional Privatization~~
3 ~~Commission shall:~~

4 (1) Be at least 19 years of age.

5 (2) Be a citizen of the United States, notwithstanding
6 any law of the state to the contrary.

7 (3) Be a high school graduate or its "equivalent" as
8 the commission has defined the term by rule.

9 (4) Not have been convicted of any felony or of a
10 misdemeanor involving perjury or a false statement, or have
11 received a dishonorable discharge from any of the Armed Forces
12 of the United States. Any person who, after July 1, 1981,
13 pleads guilty or nolo contendere to or is found guilty of any
14 felony or of a misdemeanor involving perjury or a false
15 statement is not eligible for employment or appointment as an
16 officer, notwithstanding suspension of sentence or withholding
17 of adjudication. Notwithstanding this subsection, any person
18 who has pled nolo contendere to a misdemeanor involving a
19 false statement, prior to December 1, 1985, and has had such
20 record sealed or expunged shall not be deemed ineligible for
21 employment or appointment as an officer.

22 (5) Have documentation of his or her processed
23 fingerprints on file with the employing agency or, if a
24 private correctional officer, have documentation of his or her
25 processed fingerprints on file with the Department of
26 Corrections or the Criminal Justice Standards and Training
27 Commission. If administrative delays are caused by the
28 department or the Federal Bureau of Investigation and the
29 person has complied with subsections (1)-(4) and (6)-(9), he
30 or she may be employed or appointed for a period not to exceed
31 1 calendar year from the date he or she was employed or

1 appointed or until return of the processed fingerprints
2 documenting noncompliance with subsections (1)-(4) or
3 subsection (7), whichever occurs first.

4 (6) Have passed a physical examination by a licensed
5 physician, based on specifications established by the
6 commission.

7 (7) Have a good moral character as determined by a
8 background investigation under procedures established by the
9 commission.

10 (8) Execute and submit to the employing agency or, if
11 a private correctional officer, submit to the appropriate
12 governmental entity an affidavit-of-applicant form, adopted by
13 the commission, attesting to his or her compliance with
14 subsections (1)-(7). The affidavit shall be executed under
15 oath and constitutes an official statement within the purview
16 of s. 837.06. The affidavit shall include conspicuous language
17 that the intentional false execution of the affidavit
18 constitutes a misdemeanor of the second degree. The affidavit
19 shall be retained by the employing agency.

20 (9) Complete a commission-approved basic recruit
21 training program for the applicable criminal justice
22 discipline, unless exempt under this subsection. An applicant
23 who has:

24 (a) Completed a comparable basic recruit training
25 program for the applicable criminal justice discipline in
26 another state or for the Federal Government; and

27 (b) Served as a full-time sworn officer in another
28 state or for the Federal Government for at least one year

29
30 is exempt in accordance with s. 943.131(2) from completing the
31 commission-approved basic recruit training program.

1 (10) Achieve an acceptable score on the officer
2 certification examination for the applicable criminal justice
3 discipline.

4 (11) Comply with the continuing training or education
5 requirements of s. 943.135.

6 Section 8. Subsection (4) of section 943.133, Florida
7 Statutes, is amended to read:

8 943.133 Responsibilities of employing agency,
9 commission, and program with respect to compliance with
10 employment qualifications and the conduct of background
11 investigations; injunctive relief.--

12 (4) When the employing agency is a private entity
13 under contract to the county or the state pursuant to s.
14 944.105 or, s. 951.062, ~~or chapter 957~~, the contracting agency
15 shall be responsible for meeting the requirements of
16 subsections (1), (2), and (3).

17 Section 9. Subsection (4) of section 944.02, Florida
18 Statutes, is amended to read:

19 944.02 Definitions.--The following words and phrases
20 used in this chapter shall, unless the context clearly
21 indicates otherwise, have the following meanings:

22 (4) "Elderly offender" means a prisoner age 50 or
23 older in a state correctional institution or facility operated
24 by the Department of Corrections ~~or the Correctional~~
25 ~~Privatization Commission.~~

26 Section 10. Paragraph (b) of subsection (1) of section
27 944.023, Florida Statutes, is amended to read:

28 944.023 Comprehensive correctional master plan.--

29 (1) As used in this section, the term:

30 (b) "Total capacity" of the state correctional system
31 means the total design capacity of all institutions and

1 facilities in the state correctional system, ~~which may include~~
2 ~~those facilities authorized and funded under chapter 957,~~
3 increased by one-half, with the following exceptions:

4 1. Medical and mental health beds must remain at
5 design capacity.

6 2. Community-based contracted beds must remain at
7 design capacity.

8 3. The one-inmate-per-cell requirement at Florida
9 State Prison and other maximum security facilities must be
10 maintained pursuant to paragraph (7)(a).

11 4. Community correctional centers and drug treatment
12 centers must be increased by one-third.

13 5. A housing unit may not exceed its maximum capacity
14 pursuant to paragraphs (7)(a) and (b).

15 6. A number of beds equal to 5 percent of total
16 capacity shall be deducted for management beds at
17 institutions.

18 Section 11. Subsection (1) and paragraphs (b) and (c)
19 of subsection (2) of section 944.115, Florida Statutes, are
20 amended to read:

21 944.115 Smoking prohibited inside state correctional
22 facilities.--

23 (1) The purpose of this section is to protect the
24 health, comfort, and environment of employees of the
25 Department of Corrections, employees of privately operated
26 correctional facilities, ~~employees of the Correctional~~
27 ~~Privatization Commission,~~ and inmates by prohibiting inmates
28 from using tobacco products inside any office or building
29 within state correctional facilities, and by ensuring that
30 employees and visitors do not use tobacco products inside any
31 office or building within state correctional facilities.

1 Scientific evidence links the use of tobacco products with
2 numerous significant health risks. The use of tobacco products
3 by inmates, employees, or visitors is contrary to efforts by
4 the Department of Corrections to reduce the cost of inmate
5 health care and to limit unnecessary litigation. The
6 Department of Corrections and the private vendors operating
7 correctional facilities shall make smoking-cessation
8 assistance available to inmates in order to implement this
9 section. The Department of Corrections and the private vendors
10 operating correctional facilities shall implement this section
11 as soon as possible, and all provisions of this section must
12 be fully implemented by January 1, 2000.

13 (2) As used in this section, the term:

14 (b) "Employee" means an employee of the department or
15 a private vendor in a contractual relationship with ~~either~~ the
16 Department of Corrections ~~or the Correctional Privatization~~
17 ~~Commission~~, and includes persons such as contractors,
18 volunteers, or law enforcement officers who are within a state
19 correctional facility to perform a professional service.

20 (c) "State correctional facility" means a state or
21 privately operated correctional institution as defined in s.
22 944.02, or a correctional institution or facility operated
23 under s. 944.105 ~~or chapter 957~~.

24 Section 12. Subsection (1) of section 944.72, Florida
25 Statutes, is amended to read:

26 944.72 Privately Operated Institutions Inmate Welfare
27 Trust Fund.--

28 (1) There is hereby created in the Department of
29 Corrections the Privately Operated Institutions Inmate Welfare
30 Trust Fund. The purpose of the trust fund shall be the benefit
31 and welfare of inmates incarcerated in private correctional

1 facilities under contract with the department pursuant to
2 chapter 944 ~~or the Correctional Privatization Commission~~
3 ~~pursuant to chapter 957~~. Moneys shall be deposited in the
4 trust fund and expenditures made from the trust fund as
5 provided in s. 945.215.

6 Section 13. Section 944.8041, Florida Statutes, is
7 amended to read:

8 944.8041 Elderly offenders; annual review.--For the
9 purpose of providing information to the Legislature on elderly
10 offenders within the correctional system, the Florida
11 Corrections Commission and the Correctional Medical Authority
12 shall each submit annually a report on the status and
13 treatment of elderly offenders in the state-administered and
14 private state correctional systems, as well as such
15 information on the River Junction Correctional Institution.
16 In order to adequately prepare the reports, the Department of
17 Corrections ~~and the Correctional Privatization Commission~~
18 shall grant access to the Florida Corrections Commission and
19 the Correctional Medical Authority which includes access to
20 the facilities, offenders, and any information the agencies
21 require to complete their reports. The review shall also
22 include an examination of promising geriatric policies,
23 practices, and programs currently implemented in other
24 correctional systems within the United States. The reports,
25 with specific findings and recommendations for implementation,
26 shall be submitted to the President of the Senate and the
27 Speaker of the House of Representatives on or before December
28 31 of each year.

29 Section 14. Paragraphs (a) and (c) of subsection (2)
30 of section 945.215, Florida Statutes, are amended to read:

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1 945.215 Inmate welfare and employee benefit trust
2 funds.--

3 (2) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE
4 TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.--

5 (a) For purposes of this subsection, privately
6 operated institutions or private correctional facilities are
7 those correctional facilities under contract with the
8 department pursuant to chapter 944 ~~or the Correctional~~
9 ~~Privatization Commission pursuant to chapter 957.~~

10 ~~(c) The Correctional Privatization Commission shall~~
11 ~~annually compile a report that documents Privately Operated~~
12 ~~Institutions Inmate Welfare Trust Fund receipts and~~
13 ~~expenditures at each private correctional facility. This~~
14 ~~report must specifically identify receipt sources and~~
15 ~~expenditures. The Correctional Privatization Commission shall~~
16 ~~compile this report for the prior fiscal year and shall submit~~
17 ~~the report by September 1 of each year to the chairs of the~~
18 ~~appropriate substantive and fiscal committees of the Senate~~
19 ~~and House of Representatives and to the Executive Office of~~
20 ~~the Governor.~~

21 Section 15. Section 946.5025, Florida Statutes, is
22 amended to read:

23 946.5025 Authorization of corporation to enter into
24 contracts.--The corporation established under this chapter may
25 enter into contracts to operate correctional work programs
26 with any county or municipal authority that operates a
27 correctional facility or with a contractor authorized under
28 chapter 944 ~~or chapter 957~~ to operate a private correctional
29 facility. The corporation has the same powers, privileges, and
30 immunities in carrying out such contracts as it has under this
31 chapter.

1 Section 16. Subsection (6) of section 946.503, Florida
2 Statutes, is amended to read:

3 946.503 Definitions to be used with respect to
4 correctional work programs.--As used in ss. 946.502-946.518,
5 the term:

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

8 Section 17. This act shall take effect July 1, 2001.

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SENATE SUMMARY

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Abolishes the Correctional Privatization Commission and
13 transfers the duties, personnel, and unexpended balances
14 of funds of the Correctional Privatization Commission to
the Department of Corrections.

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