

By Senator Mitchell

4-448-02

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, 784.078, 943.053, 943.13, 943.133,  
12          944.02, 944.023, 944.115, 944.17, 944.72,  
13          944.8041, 945.215, 946.5025, 946.503, F.S.;  
14          conforming provisions to changes made by the  
15          act; repealing s. 944.7031, F.S., relating to  
16          assistance for inmates released from private  
17          correctional facilities; providing an effective  
18          date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Effective July 1, 2002, the Correctional  
23 Privatization Commission, as created in chapter 957, Florida  
24 Statutes, is abolished, and all powers, duties, functions,  
25 rules, records, personnel, property, and unexpended balances  
26 of appropriations, allocations, or other funds of the  
27 Correctional Privatization Commission are transferred by a  
28 type two transfer, as defined in section 20.06(2), Florida  
29 Statutes, to the Department of Corrections.

30           Section 2. Chapter 957, Florida Statutes, consisting  
31 of sections 957.01, 957.02, and 957.03, Florida Statutes;

1 section 957.04, Florida Statutes, as amended by section 12 of  
2 chapter 2001-242, Laws of Florida; sections 957.05 and 957.06,  
3 Florida Statutes; section 957.07, Florida Statutes, as amended  
4 by section 135 of chapter 2001-266, Laws of Florida; sections  
5 957.08 and 957.09, Florida Statutes; section 957.11, Florida  
6 Statutes, as amended by section 136 of chapter 2001-266, Laws  
7 of Florida; and sections 957.12, 957.125, 957.13, 957.14,  
8 957.15, and 957.16, Florida Statutes, is repealed.

9           Section 3. Section 394.9151, Florida Statutes, is  
10 amended to read:

11           394.9151 Contract authority.--The Department of  
12 Children and Family Services may contract with a private  
13 entity or state agency for use of and operation of facilities  
14 to comply with the requirements of this act. ~~The Department of~~  
15 ~~Children and Family Services may also contract with the~~  
16 ~~Correctional Privatization Commission as defined in chapter~~  
17 ~~957 to issue a request for proposals and monitor contract~~  
18 ~~compliance for these services.~~

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

21           395.002 Definitions.--As used in this chapter:

22           (22) "Mobile surgical facility" is a mobile facility  
23 in which licensed health care professionals provide elective  
24 surgical care under contract with the Department of  
25 Corrections ~~or a private correctional facility operating~~  
26 ~~pursuant to chapter 957~~ and in which inmate patients are  
27 admitted to and discharged from said facility within the same  
28 working day and are not permitted to stay overnight. However,  
29 mobile surgical facilities may only provide health care  
30 services only to the inmate patients of the Department of  
31 Corrections, ~~or inmate patients of a private correctional~~

1 ~~facility operating pursuant to chapter 957~~, and not to the  
2 general public.

3 Section 5. Paragraph (j) of subsection (3) of section  
4 408.036, Florida Statutes, is amended to read:

5 408.036 Projects subject to review.--

6 (3) EXEMPTIONS.--Upon request, the following projects  
7 are subject to exemption from the provisions of subsection  
8 (1):

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

13 Section 6. Subsection (1) of section 784.078, Florida  
14 Statutes, is amended to read:

15 784.078 Battery of facility employee by throwing,  
16 tossing, or expelling certain fluids or materials.--

17 (1) As used in this section, the term "facility" means  
18 a state correctional institution defined in s. 944.02(6); ~~a~~  
19 ~~private correctional facility defined in s. 944.710 or under~~  
20 ~~chapter 957~~; a county, municipal, or regional jail or other  
21 detention facility of local government under chapter 950 or  
22 chapter 951; or a secure facility operated and maintained by  
23 the Department of Corrections or the Department of Juvenile  
24 Justice.

25 Section 7. Subsection (8) of section 943.053, Florida  
26 Statutes, is amended to read:

27 943.053 Dissemination of criminal justice information;  
28 fees.--

29 (8) Notwithstanding the provisions of s. 943.0525, and  
30 any user agreements adopted pursuant thereto, and  
31 notwithstanding the confidentiality of sealed records as

1 provided for in s. 943.059, the Department of Corrections  
2 shall provide, in a timely manner, copies of the Florida  
3 criminal history records for inmates housed in a private state  
4 correctional facility to the private entity under contract to  
5 operate the facility pursuant to ~~the provisions of s. 944.105~~  
6 ~~or s. 957.03~~. The department may assess a charge for the  
7 Florida criminal history records pursuant to the provisions of  
8 chapter 119. Sealed records received by the private entity  
9 under this section remain confidential and exempt from the  
10 provisions of s. 119.07(1).

11 Section 8. Section 943.13, Florida Statutes, is  
12 amended to read:

13 943.13 Officers' minimum qualifications for employment  
14 or appointment.--On or after October 1, 1984, any person  
15 employed or appointed as a full-time, part-time, or auxiliary  
16 law enforcement officer or correctional officer; on or after  
17 October 1, 1986, any person employed as a full-time,  
18 part-time, or auxiliary correctional probation officer; and on  
19 or after October 1, 1986, any person employed as a full-time,  
20 part-time, or auxiliary correctional officer by a private  
21 entity under contract to the Department of Corrections or to  
22 a county commission must, ~~or to the Correctional Privatization~~  
23 ~~Commission shall:~~

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

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

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

29 (4) Not have been convicted of any felony or of a  
30 misdemeanor involving perjury or a false statement, or have  
31 received a dishonorable discharge from any of the Armed Forces

1 of the United States. Any person who, after July 1, 1981,  
2 pleads guilty or nolo contendere to or is found guilty of any  
3 felony or of a misdemeanor involving perjury or a false  
4 statement is not eligible for employment or appointment as an  
5 officer, notwithstanding suspension of sentence or withholding  
6 of adjudication. Notwithstanding this subsection, any person  
7 who has pled nolo contendere to a misdemeanor involving a  
8 false statement, prior to December 1, 1985, and has had such  
9 record sealed or expunged shall not be deemed ineligible for  
10 employment or appointment as an officer.

11 (5) Have documentation of his or her processed  
12 fingerprints on file with the employing agency or, if a  
13 private correctional officer, have documentation of his or her  
14 processed fingerprints on file with the Department of  
15 Corrections or the Criminal Justice Standards and Training  
16 Commission. If administrative delays are caused by the  
17 department or the Federal Bureau of Investigation and the  
18 person has complied with subsections (1)-(4) and (6)-(9), he  
19 or she may be employed or appointed for a period not to exceed  
20 1 calendar year from the date he or she was employed or  
21 appointed or until return of the processed fingerprints  
22 documenting noncompliance with subsections (1)-(4) or  
23 subsection (7), whichever occurs first.

24 (6) Have passed a physical examination by a licensed  
25 physician, based on specifications established by the  
26 commission.

27 (7) Have a good moral character as determined by a  
28 background investigation under procedures established by the  
29 commission.

30 (8) Execute and submit to the employing agency or, if  
31 a private correctional officer, submit to the appropriate

1 governmental entity an affidavit-of-applicant form, adopted by  
2 the commission, attesting to his or her compliance with  
3 subsections (1)-(7). The affidavit shall be executed under  
4 oath and constitutes an official statement within the purview  
5 of s. 837.06. The affidavit shall include conspicuous language  
6 that the intentional false execution of the affidavit  
7 constitutes a misdemeanor of the second degree. The affidavit  
8 shall be retained by the employing agency.

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

13 (a) Completed a comparable basic recruit training  
14 program for the applicable criminal justice discipline in  
15 another state or for the Federal Government; and

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

18  
19 is exempt in accordance with s. 943.131(2) from completing the  
20 commission-approved basic recruit training program.

21 (10) Achieve an acceptable score on the officer  
22 certification examination for the applicable criminal justice  
23 discipline.

24 (11) Comply with the continuing training or education  
25 requirements of s. 943.135.

26 Section 9. Subsection (4) of section 943.133, Florida  
27 Statutes, is amended to read:

28 943.133 Responsibilities of employing agency,  
29 commission, and program with respect to compliance with  
30 employment qualifications and the conduct of background  
31 investigations; injunctive relief.--

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

6           Section 10. Subsection (4) of section 944.02, Florida  
7 Statutes, is amended to read:

8           944.02 Definitions.--The following words and phrases  
9 used in this chapter shall, unless the context clearly  
10 indicates otherwise, have the following meanings:

11           (4) "Elderly offender" means a prisoner age 50 or  
12 older in a state correctional institution or facility operated  
13 by the Department of Corrections ~~or the Correctional~~  
14 ~~Privatization Commission.~~

15           Section 11. Paragraph (b) of subsection (1) of section  
16 944.023, Florida Statutes, is amended to read:

17           944.023 Comprehensive correctional master plan.--

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

19           (b) "Total capacity" of the state correctional system  
20 means the total design capacity of all institutions and  
21 facilities in the state correctional system, ~~which may include~~  
22 ~~those facilities authorized and funded under chapter 957~~,  
23 increased by one-half, with the following exceptions:

24           1. Medical and mental health beds must remain at  
25 design capacity.

26           2. Community-based contracted beds must remain at  
27 design capacity.

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

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1           4. Community correctional centers and drug treatment  
2 centers must be increased by one-third.

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

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

8           Section 12. Subsection (1) and paragraphs (b) and (c)  
9 of subsection (2) of section 944.115, Florida Statutes, are  
10 amended to read:

11           944.115 Smoking prohibited inside state correctional  
12 facilities.--

13           (1) The purpose of this section is to protect the  
14 health, comfort, and environment of employees of the  
15 Department of Corrections, employees of privately operated  
16 correctional facilities, ~~employees of the Correctional~~  
17 ~~Privatization Commission~~, and inmates by prohibiting inmates  
18 from using tobacco products inside any office or building  
19 within state correctional facilities, and by ensuring that  
20 employees and visitors do not use tobacco products inside any  
21 office or building within state correctional facilities.  
22 Scientific evidence links the use of tobacco products with  
23 numerous significant health risks. The use of tobacco products  
24 by inmates, employees, or visitors is contrary to efforts by  
25 the Department of Corrections to reduce the cost of inmate  
26 health care and to limit unnecessary litigation. The  
27 Department of Corrections and the private vendors operating  
28 correctional facilities shall make smoking-cessation  
29 assistance available to inmates in order to implement this  
30 section. The Department of Corrections and the private vendors  
31 operating correctional facilities shall implement this section



1 as soon as possible, and all provisions of this section must  
2 be fully implemented by January 1, 2000.

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

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

10 (c) "State correctional facility" means a state or  
11 privately operated correctional institution as defined in s.  
12 944.02, or a correctional institution or facility operated  
13 under s. 944.105 ~~or chapter 957~~.

14 Section 13. Paragraph (b) of subsection (3) of section  
15 944.17, Florida Statutes, is amended to read:

16 944.17 Commitments and classification; transfers.--

17 (3)

18 (b) Notwithstanding paragraph (a), any prisoner  
19 incarcerated in the state correctional system ~~or private~~  
20 ~~correctional facility operated pursuant to chapter 957~~ who is  
21 convicted in circuit or county court of a crime committed  
22 during that incarceration shall serve the sentence imposed for  
23 that crime within the state correctional system regardless of  
24 the length of sentence or classification of the offense.

25 Section 14. Section 944.7031, Florida Statutes, as  
26 created by section 8 of chapter 2001-110, Laws of Florida, is  
27 repealed.

28 Section 15. Subsection (1) of section 944.72, Florida  
29 Statutes, is amended to read:

30 944.72 Privately Operated Institutions Inmate Welfare  
31 Trust Fund.--

1           (1) There is ~~hereby~~ created in the Department of  
2 Corrections the Privately Operated Institutions Inmate Welfare  
3 Trust Fund. The purpose of the trust fund shall be the benefit  
4 and welfare of inmates incarcerated in private correctional  
5 facilities under contract with the department pursuant to  
6 chapter 944 ~~or the Correctional Privatization Commission~~  
7 ~~pursuant to chapter 957~~. Moneys shall be deposited in the  
8 trust fund and expenditures made from the trust fund as  
9 provided in s. 945.215.

10           Section 16. Section 944.8041, Florida Statutes, is  
11 amended to read:

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

1 Speaker of the House of Representatives on or before December  
2 31 of each year.

3 Section 17. Paragraphs (a) and (c) of subsection (2)  
4 of section 945.215, Florida Statutes, are amended to read:

5 945.215 Inmate welfare and employee benefit trust  
6 funds.--

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

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

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

25 Section 18. Section 946.5025, Florida Statutes, is  
26 amended to read:

27 946.5025 Authorization of corporation to enter into  
28 contracts.--The corporation established under this part may  
29 enter into contracts to operate correctional work programs  
30 with any county or municipal authority that operates a  
31 correctional facility or with a contractor authorized under

1 chapter 944 ~~or chapter 957~~ to operate a private correctional  
2 facility. The corporation has the same powers, privileges, and  
3 immunities in carrying out such contracts as it has under this  
4 chapter.

5 Section 19. Subsection (6) of section 946.503, Florida  
6 Statutes, is amended to read:

7 946.503 Definitions to be used with respect to  
8 correctional work programs.--As used in this part, the term:

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

11 Section 20. This act shall take effect July 1, 2002.

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14 SENATE SUMMARY

15 Abolishes the Correctional Privatization Commission and  
16 transfers the duties, personnel, and unexpended balances  
17 of funds of the Correctional Privatization Commission to  
18 the Department of Corrections.

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