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1 A bill to be entitled

2 An act relating to youthful offenders; amending s. 958.04,
3 F.S.; providing that the court may not sentence as
4 youthful offender certain offenders who have pled nolo
5 contendere or guilty to, or been found guilty of, capital
6 felonies, life felonies, first degree felonies, or second
7 degree felonies involving the use or attempted use of
8 force or violence; increasing the maximum period of
9 commitment of a youthful offender to the custody of the
10 Department of Corrections or maximum period of
11 incarceration or placement under supervision on probation
12 or community control; removing legislative declaration
13 with respect to construction of a basic training program
14 facility; reenacting ss. 958.03(5), 958.046, and
15 958.11(4), F.S., to incorporate the amendment to s.
16 958.04, F.S., in references thereto; amending s. 958.045,
17 F.S.; revising the sanctions for a youthful offender in
18 the basic training program who becomes unmanageable;
19 allowing the department to revoke the offender's gain-
20 time, to terminate the offender's participation in the
21 program, to return the offender to the general population
22 of inmates in the correctional system, and to submit a
23 report to the court of the facts and circumstances
24 surrounding the offender's termination from the program;
25 authorizing the court to impose any sentence that it might
26 have imposed under the Criminal Punishment Code for
27 offenders terminated from the program; providing for
28 alternative placement on probation or community control of
29 an offender who has completed the basic training program;
30 providing for the offender to remain on community control



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31 upon release from a community residential program;
 32 providing for revocation of community control and
 33 sentencing of the offender if the offender violates the
 34 conditions for community control; revising a presumption
 35 relating to a departmental request that a court place a
 36 youthful offender in the program; modifying release
 37 procedures; conforming terminology; providing an effective
 38 date.

39

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

41

42 Section 1. Section 958.04, Florida Statutes, is amended to
 43 read:

44 958.04 Judicial disposition of youthful offenders.--

45 (1) The court may sentence as a youthful offender any
 46 person:

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

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

54 (c) Who has not previously been classified as a youthful
 55 offender under the provisions of this act; however, a ~~ne~~ person
 56 who has pled nolo contendere or guilty to, or been found guilty
 57 of a capital felony, or life felony, first degree felony, or
 58 second degree felony involving the use or attempted use or force
 59 or violence may not be sentenced as a youthful offender under



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60 this act. In addition, a person who is subject to s. 775.087(2)
61 or (3) shall not be sentenced as a youthful offender.

62 (2) In lieu of other criminal penalties authorized by law
63 and notwithstanding any imposition of consecutive sentences, the
64 court may ~~shall~~ dispose of the criminal case as follows:

65 (a) The court may place a youthful offender under
66 supervision on probation or in a community control program, with
67 or without an adjudication of guilt, under such conditions as
68 the court may lawfully impose for a period of not more than 8 ~~6~~
69 years. Such a period of supervision shall not exceed the maximum
70 sentence for the offense for which the youthful offender was
71 found guilty.

72 (b) The court may impose a period of incarceration as a
73 condition of probation or community control, which period of
74 incarceration shall be served in either a county facility, a
75 department probation and restitution center, or a community
76 residential facility which is owned and operated by any public
77 or private entity providing such services. No youthful offender
78 may be required to serve a period of incarceration in a
79 community correctional center as defined in s. 944.026.
80 Admission to a department facility or center shall be contingent
81 upon the availability of bed space and shall take into account
82 the purpose and function of such facility or center. Placement
83 in such a facility or center shall not exceed 364 days.

84 (c) The court may impose a split sentence whereby the
85 youthful offender is to be placed on probation or community
86 control upon completion of any specified period of
87 incarceration; however, if the incarceration period is to be
88 served in a department facility other than a probation and
89 restitution center or community residential facility, such



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90 period shall be for not less than 1 year or more than 4 years.

91 The period of probation or community control shall commence
92 immediately upon the release of the youthful offender from
93 incarceration. The period of incarceration imposed or served and
94 the period of probation or community control, when added
95 together, shall not exceed 8 ~~6~~ years.

96 (d) The court may commit the youthful offender to the
97 custody of the department for a period of not more than 8 ~~6~~
98 years, provided that any such commitment shall not exceed the
99 maximum sentence for the offense for which the youthful offender
100 has been convicted. Successful participation in the youthful
101 offender program by an offender who is sentenced as a youthful
102 offender by the court pursuant to this section, or is classified
103 as such by the department, may result in a recommendation to the
104 court, by the department, for a modification or early
105 termination of probation, community control, or the sentence at
106 any time prior to the scheduled expiration of such term. When a
107 modification of the sentence results in the reduction of a term
108 of incarceration, the court may impose a term of probation or
109 community control which, when added to the term of
110 incarceration, shall not exceed the original sentence imposed.

111 (3) The provisions of this section shall not be used to
112 impose a greater sentence than the permissible sentence range as
113 established by the Criminal Punishment Code pursuant to chapter
114 921 unless reasons are explained in writing by the trial court
115 judge which reasonably justify departure. A sentence imposed
116 outside of the code is subject to appeal pursuant to s. 924.06
117 or s. 924.07.



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

121 (4)~~(5)~~ The department shall provide a special training
 122 program for staff selected for the basic training program.

123 Section 2. For the purpose of incorporating the amendment
 124 to section 958.04, Florida Statutes, in references thereto,
 125 subsection (5) of section 958.03, Florida Statutes, is reenacted
 126 to read:

127 958.03 Definitions.--As used in this act:

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

131 Section 3. For the purpose of incorporating the amendment
 132 to section 958.04, Florida Statutes, in references thereto,
 133 section 958.046, Florida Statutes, is reenacted to read:

134 958.046 Placement in county-operated boot camp programs
 135 for youthful offenders.--In counties where there are county-
 136 operated youthful offender boot camp programs, other than boot
 137 camps described in s. 958.04 or s. 985.309, the court may
 138 sentence a youthful offender to such a boot camp. In county-
 139 operated youthful offender boot camp programs, juvenile
 140 offenders shall not be commingled with youthful offenders.

141 Section 4. For the purpose of incorporating the amendment
 142 to section 958.04, Florida Statutes, in references thereto,
 143 subsection (4) of section 958.11, Florida Statutes, is reenacted
 144 to read:

145 958.11 Designation of institutions and programs for
 146 youthful offenders; assignment from youthful offender
 147 institutions and programs.--



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148 (4) The Office of the Assistant Secretary for Youthful
149 Offenders shall continuously screen all institutions,
150 facilities, and programs for any inmate who meets the
151 eligibility requirements for youthful offender designation
152 specified in s. 958.04(1)(a) and (c) whose age does not exceed
153 24 years and whose total length of sentence does not exceed 10
154 years, and the department may classify and assign as a youthful
155 offender any inmate who meets the criteria of this subsection.

156 Section 5. Section 958.045, Florida Statutes, is amended
157 to read:

158 958.045 Youthful offender basic training program.--

159 (1) The department shall develop and implement a basic
160 training program for youthful offenders sentenced or classified
161 by the department as youthful offenders pursuant to this
162 chapter. The period of time to be served at the basic training
163 program shall be no less than 120 days.

164 (a) The program shall include marching drills,
165 calisthenics, a rigid dress code, manual labor assignments,
166 physical training with obstacle courses, training in
167 decisionmaking and personal development, general education
168 development and adult basic education courses, and drug
169 counseling and other rehabilitation programs.

170 (b) The department shall adopt rules governing the
171 administration of the youthful offender basic training program,
172 requiring that basic training participants complete a structured
173 disciplinary program, and allowing for a restriction on general
174 inmate population privileges.

175 (2) Upon receipt of youthful offenders, the department
176 shall screen offenders for the basic training program. To
177 participate, an offender must have no physical limitations that



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178 preclude participation in strenuous activity, must not be
179 impaired, and must not have been previously incarcerated in a
180 state or federal correctional facility. In screening offenders
181 for the basic training program, the department shall consider
182 the offender's criminal history and the possible rehabilitative
183 benefits of "shock" incarceration. If an offender meets the
184 specified criteria and space is available, the department shall
185 request, in writing from the sentencing court, approval for the
186 offender to participate in the basic training program. If the
187 person is classified by the department as a youthful offender
188 and the department is requesting approval from the sentencing
189 court for placement in the program, the department shall, at the
190 same time, notify the state attorney that the offender is being
191 considered for placement in the basic training program. The
192 notice must explain that the purpose of such placement is
193 diversion from lengthy incarceration when a short "shock"
194 incarceration could produce the same deterrent effect, and that
195 the state attorney may, within 14 days after the mailing of the
196 notice, notify the sentencing court in writing of objections, if
197 any, to the placement of the offender in the basic training
198 program. The sentencing court shall notify the department in
199 writing of placement approval no later than 21 days after
200 receipt of the department's request for placement of the
201 youthful offender in the basic training program. Failure to
202 notify the department within 21 days shall be considered a
203 denial ~~an approval~~ by the sentencing court of the department's
204 request for placing the youthful offender in the basic training
205 program. Each state attorney may develop procedures for
206 notifying the victim that the offender is being considered for
207 placement in the basic training program.



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208 (3) The program shall provide a short incarceration period
 209 of rigorous training to offenders who require a greater degree
 210 of supervision than community control or probation provides.
 211 Basic training programs may be operated in secure areas in or
 212 adjacent to an adult institution notwithstanding s. 958.11. The
 213 program is not intended to divert offenders away from probation
 214 or community control but to divert them from long periods of
 215 incarceration when a short "shock" incarceration could produce
 216 the same deterrent effect.

217 (4) Upon admittance to the department, an educational and
 218 substance abuse assessment shall be performed on each youthful
 219 offender. Upon admittance to the basic training program, each
 220 offender shall have a full substance abuse assessment to
 221 determine the offender's need for substance abuse treatment. The
 222 educational assessment shall be accomplished through the aid of
 223 the Test of Adult Basic Education or any other testing
 224 instrument approved by the Department of Education, as
 225 appropriate. Each offender who has not obtained a high school
 226 diploma shall be enrolled in an adult education program designed
 227 to aid the offender in improving his or her academic skills and
 228 earning a high school diploma. Further assessments of the prior
 229 vocational skills and future career education shall be provided
 230 to the offender. A periodic evaluation shall be made to assess
 231 the progress of each offender, and upon completion of the basic
 232 training program the assessment and information from the
 233 department's record of each offender shall be transferred to the
 234 appropriate community residential program.

235 (5)(a) If an offender in the basic training program
 236 becomes unmanageable, the department may revoke the offender's
 237 gain-time, terminate the offender from the program, and return



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238 ~~the offender to and place the offender in disciplinary~~
239 ~~confinement for up to 30 days. Upon completion of the~~
240 ~~disciplinary process, the offender shall be readmitted to the~~
241 ~~basic training program, except for an offender who has committed~~
242 ~~or threatened to commit a violent act. If the offender is~~
243 ~~terminated from the program, the department may place the~~
244 ~~offender in the general population of inmates in the~~
245 ~~correctional system to complete the remainder of the offender's~~
246 ~~sentence. Any period of time in which the offender is unable to~~
247 ~~participate in the basic training activities may be excluded~~
248 ~~from the specified time requirements in the program. The~~
249 ~~department shall submit a report to the court describing the~~
250 ~~facts and circumstances surrounding the offender's termination~~
251 ~~from the program. The court may in its discretion order the~~
252 ~~offender returned to the department's general population to~~
253 ~~complete the remainder of his or her youthful offender sentence~~
254 ~~or impose any sentence under the Criminal Punishment Code~~
255 ~~pursuant to chapter 921 that it might have originally imposed.~~

256 (b) If the offender is unable to participate in the basic
257 training activities due to medical reasons, certified medical
258 personnel shall examine the offender and shall consult with the
259 basic training program director concerning the offender's
260 termination from the program.

261 (c) The portion of the sentence served prior to placement
262 in the basic training program may not be counted toward program
263 completion. Upon the offender's completion of the basic training
264 program, the department shall submit a report to the court that
265 describes the offender's performance. If the offender's
266 performance has been satisfactory, the court shall issue an
267 order modifying the sentence imposed and placing the offender on



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268 probation or community control or a combination thereof. The
269 term of probation or community control may include placement in
270 a community residential program. If the offender violates the
271 conditions of probation or community control, the court may
272 revoke probation and impose any sentence that it might have
273 originally imposed under the Criminal Punishment Code pursuant
274 to chapter 921 as a condition of probation.

275 (6)(a) Upon completing the basic training program, an
276 offender shall be transferred to a community residential program
277 and reside there for a term designated by department rule. If
278 the basic training program director determines that the offender
279 is not suitable for the community residential program but is
280 suitable for an alternative postrelease program or release plan,
281 within 30 days prior to program completion the department shall
282 evaluate the offender's needs and determine an alternative
283 postrelease program or plan. The department's consideration
284 shall include, but not be limited to, the offender's employment,
285 residence, family situation, and probation or postrelease
286 supervision obligations. Upon the approval of the department,
287 the offender shall be released to an alternative postrelease
288 program or plan.

289 (b) While in the community residential program, as
290 appropriate, the offender shall engage in gainful employment,
291 and if any, shall pay restitution to the victim. If appropriate,
292 the offender may enroll in substance abuse counseling, and if
293 suitable, shall enroll in a general education development or
294 adult basic education class for the purpose of attaining a high
295 school diploma. Upon release from the community residential
296 program, the offender shall remain on probation, community
297 control, or other postrelease supervision, and abide by the



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298 conditions of the offender's probation, community control, or
299 postrelease supervision. If, upon transfer from the community
300 residential program, the offender has not completed the enrolled
301 educational program, the offender shall continue the educational
302 program until completed. If the offender fails to complete the
303 program, the department may request the court or the control
304 release authority to execute an order returning the offender
305 back to the community residential program until completion of
306 the program.

307 (7) The department shall implement the basic training
308 program to the fullest extent feasible within the provisions of
309 this section.

310 (8)(a) The Assistant Secretary for Youthful Offenders
311 shall continuously screen all institutions, facilities, and
312 programs for any inmate who meets the eligibility requirements
313 for youthful offender designation specified in s. 958.04(1)(a)
314 and (c), whose age does not exceed 24 years and whose total
315 length of sentence does not exceed 10 years.

316 (b) The department may classify and assign as a youthful
317 offender any inmate who meets the criteria of this subsection ~~s.~~
318 ~~958.04~~.

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

322 (c) The department shall work cooperatively with the
323 Control Release Authority or the Parole Commission to effect the
324 release of an offender who has successfully completed the
325 requirements of the basic training program.

326 (d) Upon an offender's completion of the basic training
327 program, the department shall submit a report to the releasing



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328 authority that describes the offender's performance. If the
 329 performance has been satisfactory, the release authority shall,
 330 upon receipt of a court order modifying the offender's sentence,
 331 establish a release date that is within 20 ~~30~~ days following
 332 receipt of the court order ~~program completion~~. As a condition of
 333 release, the offender shall be placed in a community residential
 334 program as provided in this section or on community supervision
 335 as provided in chapter 947, and shall be subject to the
 336 conditions established therefor.

337 (9) Upon commencement of the community residential
 338 program, the department shall submit annual reports to the
 339 Governor, the President of the Senate, and the Speaker of the
 340 House of Representatives detailing the extent of implementation
 341 of the basic training program and the community residential
 342 program, and outlining future goals and any recommendation the
 343 department has for future legislative action.

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

347 (10)~~(11)~~ The department shall provide a special training
 348 program for staff selected for the basic training program.

349 (11)~~(12)~~ The department may develop performance-based
 350 contracts with qualified individuals, agencies, or corporations
 351 for the provision of any or all of the youthful offender
 352 programs.

353 (12)~~(13)~~ An offender in the basic training program is
 354 subject to rules of conduct established by the department and
 355 may have sanctions imposed, including loss of privileges,
 356 restrictions, disciplinary confinement, alteration of release
 357 plans, or other program modifications in keeping with the nature



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358 and gravity of the program violation. Administrative or
359 protective confinement, as necessary, may be imposed.

360 (13)~~(14)~~ The department may establish a system of
361 incentives within the basic training program which the
362 department may use to promote participation in rehabilitative
363 programs and the orderly operation of institutions and
364 facilities.

365 (14)~~(15)~~ The department shall develop a system for
366 tracking recidivism, including, but not limited to, rearrests
367 and recommitment of youthful offenders, and shall report on that
368 system in its annual reports of the programs.

369 Section 6. This act shall take effect upon becoming a law.