

By Senator Crist

12-1385-03

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, s. 958.11(4),
23 F.S., relating to designation of institutions
24 and programs for youthful offenders and
25 assignment from youthful offender institutions
26 and programs, and s. 985.233(4)(c), F.S.,
27 relating to the imposition of adult sanctions,
28 to incorporate the amendment to s. 958.04,
29 F.S., in references thereto; amending s.
30 958.045, F.S., relating to the youthful
31 offender basic training program; revising the

1 sanctions for a youthful offender in the basic
2 training program who becomes unmanageable;
3 allowing the department to revoke the
4 offender's gain-time, to terminate the
5 offender's participation in the program, and to
6 return the offender to the general population
7 of inmates in the correctional system;
8 requiring a report to the court; authorizing
9 the court to reimpose sentence; providing for
10 alternative placement on probation or community
11 control of an offender who has completed the
12 basic training program; providing for the
13 offender to remain on community control upon
14 release from a community residential program;
15 providing for revocation of community control
16 and sentencing of the offender if the offender
17 violates the conditions of community control;
18 conforming terminology; providing an effective
19 date.

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

22
23 Section 1. Section 958.04, Florida Statutes, is
24 amended to read:

25 958.04 Judicial disposition of youthful offenders.--

26 (1) The court may sentence as a youthful offender any
27 person:

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

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

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

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

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

26 (b) The court may impose a period of incarceration as
27 a condition of probation or community control, which period of
28 incarceration shall be served in either a county facility, a
29 department probation and restitution center, or a community
30 residential facility which is owned and operated by any public
31 or private entity providing such services. No youthful

1 offender may be required to serve a period of incarceration in
2 a community correctional center as defined in s. 944.026.
3 Admission to a department facility or center shall be
4 contingent upon the availability of bed space and shall take
5 into account the purpose and function of such facility or
6 center. Placement in such a facility or center shall not
7 exceed 364 days.

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

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

1 results in the reduction of a term of incarceration, the court
2 may impose a term of probation or community control which,
3 when added to the term of incarceration, shall not exceed the
4 original sentence imposed.

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

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

15 (4)~~(5)~~ The department shall provide a special training
16 program for staff selected for the basic training program.

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

21 958.03 Definitions.--As used in this act:

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

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

29 958.046 Placement in county-operated boot camp
30 programs for youthful offenders.--In counties where there are
31 county-operated youthful offender boot camp programs, other

1 than boot camps described in s. 958.04 or s. 985.309, the
2 court may sentence a youthful offender to such a boot camp.
3 In county-operated youthful offender boot camp programs,
4 juvenile offenders shall not be commingled with youthful
5 offenders.

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

10 958.11 Designation of institutions and programs for
11 youthful offenders; assignment from youthful offender
12 institutions and programs.--

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

22 Section 5. For the purpose of incorporating the
23 amendment to section 958.04, Florida Statutes, in references
24 thereto, paragraph (c) of subsection (4) of section 985.233,
25 Florida Statutes, is reenacted to read:

26 985.233 Sentencing powers; procedures; alternatives
27 for juveniles prosecuted as adults.--

28 (4) SENTENCING ALTERNATIVES.--

29 (c) Imposition of adult sanctions upon failure of
30 juvenile sanctions.--If a child proves not to be suitable to a
31 commitment program, in a juvenile probation program, or

1 treatment program under the provisions of paragraph (b), the
2 department shall provide the sentencing court with a written
3 report outlining the basis for its objections to the juvenile
4 sanction and shall simultaneously provide a copy of the report
5 to the state attorney and the defense counsel. The department
6 shall schedule a hearing within 30 days. Upon hearing, the
7 court may revoke the previous adjudication, impose an
8 adjudication of guilt, and impose any sentence which it may
9 lawfully impose, giving credit for all time spent by the child
10 in the department. The court may also classify the child as a
11 youthful offender pursuant to s. 958.04, if appropriate. For
12 purposes of this paragraph, a child may be found not suitable
13 to a commitment program, community control program, or
14 treatment program under the provisions of paragraph (b) if the
15 child commits a new violation of law while under juvenile
16 sanctions, if the child commits any other violation of the
17 conditions of juvenile sanctions, or if the child's actions
18 are otherwise determined by the court to demonstrate a failure
19 of juvenile sanctions.

20 Section 6. Section 958.045, Florida Statutes, is
21 amended to read:

22 958.045 Youthful offender basic training program.--

23 (1) The department shall develop and implement a basic
24 training program for youthful offenders sentenced or
25 classified by the department as youthful offenders pursuant to
26 this chapter. The period of time to be served at the basic
27 training program shall be no less than 120 days.

28 (a) The program shall include marching drills,
29 calisthenics, a rigid dress code, manual labor assignments,
30 physical training with obstacle courses, training in
31 decisionmaking and personal development, general education

1 development and adult basic education courses, and drug
2 counseling and other rehabilitation programs.

3 (b) The department shall adopt rules governing the
4 administration of the youthful offender basic training
5 program, requiring that basic training participants complete a
6 structured disciplinary program, and allowing for a
7 restriction on general inmate population privileges.

8 (2) Upon receipt of youthful offenders, the department
9 shall screen offenders for the basic training program. To
10 participate, an offender must have no physical limitations
11 that preclude participation in strenuous activity, must not be
12 impaired, and must not have been previously incarcerated in a
13 state or federal correctional facility. In screening offenders
14 for the basic training program, the department shall consider
15 the offender's criminal history and the possible
16 rehabilitative benefits of "shock" incarceration. If an
17 offender meets the specified criteria and space is available,
18 the department shall request, in writing from the sentencing
19 court, approval for the offender to participate in the basic
20 training program. If the person is classified by the
21 department as a youthful offender and the department is
22 requesting approval from the sentencing court for placement in
23 the program, the department shall, at the same time, notify
24 the state attorney that the offender is being considered for
25 placement in the basic training program. The notice must
26 explain that the purpose of such placement is diversion from
27 lengthy incarceration when a short "shock" incarceration could
28 produce the same deterrent effect, and that the state attorney
29 may, within 14 days after the mailing of the notice, notify
30 the sentencing court in writing of objections, if any, to the
31 placement of the offender in the basic training program. The

1 sentencing court shall notify the department in writing of
2 placement approval no later than 21 days after receipt of the
3 department's request for placement of the youthful offender in
4 the basic training program. Failure to notify the department
5 within 21 days shall be considered a denial ~~an approval~~ by the
6 sentencing court of the department's request for placing the
7 youthful offender in the basic training program. Each state
8 attorney may develop procedures for notifying the victim that
9 the offender is being considered for placement in the basic
10 training program.

11 (3) The program shall provide a short incarceration
12 period of rigorous training to offenders who require a greater
13 degree of supervision than community control or probation
14 provides. Basic training programs may be operated in secure
15 areas in or adjacent to an adult institution notwithstanding
16 s. 958.11. The program is not intended to divert offenders
17 away from probation or community control but to divert them
18 from long periods of incarceration when a short "shock"
19 incarceration could produce the same deterrent effect.

20 (4) Upon admittance to the department, an educational
21 and substance abuse assessment shall be performed on each
22 youthful offender. Upon admittance to the basic training
23 program, each offender shall have a full substance abuse
24 assessment to determine the offender's need for substance
25 abuse treatment. The educational assessment shall be
26 accomplished through the aid of the Test of Adult Basic
27 Education or any other testing instrument approved by the
28 Department of Education, as appropriate. Each offender who has
29 not obtained a high school diploma shall be enrolled in an
30 adult education program designed to aid the offender in
31 improving his or her academic skills and earning a high school

1 diploma. Further assessments of the prior vocational skills
2 and future career education shall be provided to the offender.
3 A periodic evaluation shall be made to assess the progress of
4 each offender, and upon completion of the basic training
5 program the assessment and information from the department's
6 record of each offender shall be transferred to the
7 appropriate community residential program.

8 (5)(a) If an offender in the basic training program
9 becomes unmanageable, the department may revoke the offender's
10 gain-time, terminate the offender from the program, and return
11 the offender to and place the offender in disciplinary
12 confinement for up to 30 days. Upon completion of the
13 disciplinary process, the offender shall be readmitted to the
14 basic training program, except for an offender who has
15 committed or threatened to commit a violent act. If the
16 offender is terminated from the program, the department may
17 place the offender in the general population of inmates in the
18 correctional system. The department shall submit a report to
19 the court describing the facts and circumstances surrounding
20 the offender's termination from the program. The court may in
21 its discretion order the offender returned to the department's
22 general population to complete the remainder of his or her
23 youthful offender sentence or impose any sentence under the
24 Criminal Punishment Code under chapter 921 which it might have
25 originally imposed.~~to complete the remainder of the~~
26 ~~offender's sentence. Any period of time in which the offender~~
27 ~~is unable to participate in the basic training activities may~~
28 ~~be excluded from the specified time requirements in the~~
29 ~~program.~~

30 (b) If the offender is unable to participate in the
31 basic training activities due to medical reasons, certified

1 medical personnel shall examine the offender and shall consult
2 with the basic training program director concerning the
3 offender's termination from the program.

4 (c) The portion of the sentence served prior to
5 placement in the basic training program may not be counted
6 toward program completion. Upon the offender's completion of
7 the basic training program, the department shall submit a
8 report to the court that describes the offender's performance.
9 If the offender's performance has been satisfactory, the court
10 shall issue an order modifying the sentence imposed and
11 placing the offender on probation or community control or a
12 combination thereof. The term of probation or community
13 control may include placement in a community residential
14 program. If the offender violates the conditions of probation
15 or community control, the court may revoke probation or
16 community control and impose any sentence that it might have
17 originally imposed under the Criminal Punishment Code under
18 chapter 921 as a condition of probation.

19 (6)(a) Upon completing the basic training program, an
20 offender shall be transferred to a community residential
21 program and reside there for a term designated by department
22 rule. If the basic training program director determines that
23 the offender is not suitable for the community residential
24 program but is suitable for an alternative postrelease program
25 or release plan, within 30 days prior to program completion
26 the department shall evaluate the offender's needs and
27 determine an alternative postrelease program or plan. The
28 department's consideration shall include, but not be limited
29 to, the offender's employment, residence, family situation,
30 and probation or postrelease supervision obligations. Upon the

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1 approval of the department, the offender shall be released to
2 an alternative postrelease program or plan.

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

22 (7) The department shall implement the basic training
23 program to the fullest extent feasible within the provisions
24 of this section.

25 (8)(a) The Assistant Secretary for Youthful Offenders
26 shall continuously screen all institutions, facilities, and
27 programs for any inmate who meets the eligibility requirements
28 for youthful offender designation specified in s. 958.04(1)(a)
29 and (e)~~s. 958.04~~, whose age does not exceed 24 years and
30 whose total length of sentence does not exceed 10 years.

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1 **(b)** The department may classify and assign as a
2 youthful offender any inmate who meets the criteria of this
3 subsection s. 958.04.

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

7 (c) The department shall work cooperatively with the
8 Control Release Authority or the Parole Commission to effect
9 the release of an offender who has successfully completed the
10 requirements of the basic training program.

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

23 (9) Upon commencement of the community residential
24 program, the department shall submit annual reports to the
25 Governor, the President of the Senate, and the Speaker of the
26 House of Representatives detailing the extent of
27 implementation of the basic training program and the community
28 residential program, and outlining future goals and any
29 recommendation the department has for future legislative
30 action.

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

4 (10)~~(11)~~ The department shall provide a special
5 training program for staff selected for the basic training
6 program.

7 (11)~~(12)~~ The department may develop performance-based
8 contracts with qualified individuals, agencies, or
9 corporations for the provision of any or all of the youthful
10 offender programs.

11 (12)~~(13)~~ An offender in the basic training program is
12 subject to rules of conduct established by the department and
13 may have sanctions imposed, including loss of privileges,
14 restrictions, disciplinary confinement, alteration of release
15 plans, or other program modifications in keeping with the
16 nature and gravity of the program violation. Administrative or
17 protective confinement, as necessary, may be imposed.

18 (13)~~(14)~~ The department may establish a system of
19 incentives within the basic training program which the
20 department may use to promote participation in rehabilitative
21 programs and the orderly operation of institutions and
22 facilities.

23 (14)~~(15)~~ The department shall develop a system for
24 tracking recidivism, including, but not limited to, rearrests
25 and recommitment of youthful offenders, and shall report on
26 that system in its annual reports of the programs.

27 Section 7. This act shall take effect October 1, 2003.
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SENATE SUMMARY

Provides that a court may not sentence as youthful offenders certain offenders who have pled nolo contendere or guilty to, or have 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 the maximum period of commitment of a youthful offender to the custody of the Department of Corrections or maximum period of incarceration or placement under supervision on probation or community control. Deletes a legislative declaration concerning construction of a basic training program facility. 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 the revocation of community control and sentencing of the offender if the offender violates the conditions of community control. Conforms terminology.