

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Richardson offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (1) of section 921.187, Florida
6 Statutes, is amended to read:

7 921.187 Disposition and sentencing; alternatives;
8 restitution.--

9 (1) The alternatives provided in this section for the
10 disposition of criminal cases shall be used in a manner that
11 will best serve the needs of society, punish criminal offenders,
12 and provide the opportunity for rehabilitation.

13 (a) If the offender does not receive a state prison
14 sentence, the court may:

15 1. Impose a split sentence whereby the offender is to be
16 placed on probation upon completion of any specified period of
17 such sentence, which period may include a term of years or less.

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18 2. Make any other disposition that is authorized by law.

19 3. Place the offender on probation with or without an
20 adjudication of guilt pursuant to s. 948.01.

21 4. Impose a fine and probation pursuant to s. 948.011 when
22 the offense is punishable by both a fine and imprisonment and
23 probation is authorized.

24 5. Place the offender into community control requiring
25 intensive supervision and surveillance pursuant to chapter 948.

26 6. Impose, as a condition of probation or community
27 control, a period of treatment which shall be restricted to a
28 county facility, ~~a Department of Corrections probation and~~
29 ~~restitution center,~~ a probation program drug punishment
30 treatment community, or a community residential or
31 nonresidential facility, excluding a community correctional
32 center as defined in s. 944.026, which is owned and operated by
33 any qualified public or private entity providing such services.
34 Before admission to such a facility, the court shall obtain an
35 individual assessment and recommendations on the appropriate
36 treatment needs, which shall be considered by the court in
37 ordering such placements. Placement in such a facility, except
38 for a county residential probation facility, may not exceed 364
39 days. Placement in a county residential probation facility may
40 not exceed 3 years. Early termination of placement may be
41 recommended to the court, when appropriate, by the center
42 supervisor, the supervising probation officer, or the probation
43 program manager.

44 7. Sentence the offender pursuant to s. 922.051 to
45 imprisonment in a county jail when a statute directs
46 imprisonment in a state prison, if the offender's cumulative
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47 sentence, whether from the same circuit or from separate
48 circuits, is not more than 364 days.

49 8. Sentence the offender who is to be punished by
50 imprisonment in a county jail to a jail in another county if
51 there is no jail within the county suitable for such prisoner
52 pursuant to s. 950.01.

53 9. Require the offender to participate in a work-release
54 or educational or technical training program pursuant to s.
55 951.24 while serving a sentence in a county jail, if such a
56 program is available.

57 10. Require the offender to perform a specified public
58 service pursuant to s. 775.091.

59 11. Require the offender who violates chapter 893 or
60 violates any law while under the influence of a controlled
61 substance or alcohol to participate in a substance abuse
62 program.

63 12.a. Require the offender who violates any criminal
64 provision of chapter 893 to pay an additional assessment in an
65 amount up to the amount of any fine imposed, pursuant to ss.
66 938.21 and 938.23.

67 b. Require the offender who violates any provision of s.
68 893.13 to pay an additional assessment in an amount of \$100,
69 pursuant to ss. 938.25 and 943.361.

70 13. Impose a split sentence whereby the offender is to be
71 placed in a county jail or county work camp upon the completion
72 of any specified term of community supervision.

73 14. Impose split probation whereby upon satisfactory
74 completion of half the term of probation, the Department of
75 Corrections may place the offender on administrative probation

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76 | pursuant to s. 948.013 for the remainder of the term of
77 | supervision.

78 | 15. Require residence in a ~~state probation and restitution~~
79 | ~~center~~ or private drug treatment program for offenders on
80 | community control or offenders who have violated conditions of
81 | probation.

82 | 16. Impose any other sanction which is provided within the
83 | community and approved as an intermediate sanction by the county
84 | public safety coordinating council as described in s. 951.26.

85 | 17. Impose, as a condition of community control,
86 | probation, or probation following incarceration, a requirement
87 | that an offender who has not obtained a high school diploma or
88 | high school equivalency diploma or who lacks basic or functional
89 | literacy skills, upon acceptance by an adult education program,
90 | make a good faith effort toward completion of such basic or
91 | functional literacy skills or high school equivalency diploma,
92 | as defined in s. 1003.435, in accordance with the assessed adult
93 | general education needs of the individual offender.

94 | (b)1. Notwithstanding any provision of former s. 921.001
95 | or s. 921.002 to the contrary, on or after October 1, 1993, the
96 | court may require any defendant who violates s. 893.13(1)(a)1.,
97 | (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria
98 | described in s. 893.13(10), to successfully complete a term of
99 | probation pursuant to the terms and conditions set forth in s.
100 | 948.034(1), in lieu of serving a term of imprisonment.

101 | 2. Notwithstanding any provision of former s. 921.001 or
102 | s. 921.002 to the contrary, on or after October 1, 1993, the
103 | court may require any defendant who violates s. 893.13(1)(a)2.,
104 | (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in
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105 s. 893.13(11), to successfully complete a term of probation
106 pursuant to the terms and conditions set forth in s. 948.034(2),
107 in lieu of serving a term of imprisonment.

108 Section 2. Paragraph (c) of subsection (1) and subsections
109 (2) and (3) of section 944.026, Florida Statutes, are amended to
110 read:

111 944.026 Community-based facilities and programs.--

112 (1) In addition to those facilities and services described
113 elsewhere in this chapter, the department shall develop,
114 provide, or contract for a statewide system of community-based
115 facilities, services, and programs dealing with the
116 rehabilitation of offenders, which shall include, but not be
117 limited to:

118 ~~(c) A system of probation and restitution centers~~
119 ~~throughout the state whereby probationers, drug offender~~
120 ~~probationers, and community controlles who have violated their~~
121 ~~terms or conditions, and whose presumptive sentence exceeds 22~~
122 ~~months, may be required to reside while working, receiving~~
123 ~~treatment, or attending school, or for persons on probation,~~
124 ~~drug offender probation, or community control who may be~~
125 ~~required to attend outpatient substance abuse counseling and~~
126 ~~whereby inmates may be placed who are nearing their date of~~
127 ~~release from a correctional institution or a community~~
128 ~~correctional center, who are in need of placement in a substance~~
129 ~~abuse transition housing program, and who are considered~~
130 ~~eligible for such placement by the department. The purpose of~~
131 ~~these facilities and services is to provide the court with an~~
132 ~~alternative to committing offenders to more secure state~~
133 ~~correctional institutions and to assist in the supervision of~~

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134 ~~probationers, drug offender probationers, and community~~
135 ~~controllees and to provide the department transitional housing~~
136 ~~beds to assist inmates released into the community.~~

137 (2) Notwithstanding any other law, the department shall
138 ensure that at least 400 of its contracted beds in nonsecure
139 community-based residential substance abuse treatment facilities
140 authorized under subparagraph (1)(b)1. ~~or probation and~~
141 ~~restitution centers authorized under paragraph (1)(c)~~ are
142 designated for transition assistance for inmates who are nearing
143 their date of release from a correctional institution or a
144 community correctional center. These designated beds shall be
145 provided by private organizations that do not have a faith
146 component and that are under contract with the department. In
147 making placement decisions, the department and the contract
148 providers shall give priority consideration to those inmates who
149 are nearing their date of release and who are to be placed in
150 some form of postrelease community supervision. However, if an
151 inmate whose sentence expires upon his or her release from a
152 correctional institution or a community correction center and
153 for whom community supervision is not required demonstrates the
154 need for or interest in and suitability for transition-housing
155 assistance, as determined by the department, the inmate is
156 eligible to be considered for placement in transition housing. A
157 right to substance abuse program services is not stated,
158 intended, or otherwise implied by this subsection.

159 (3)~~(a)~~ The department shall develop and implement
160 procedures to diagnose offenders prior to sentencing, for the
161 purpose of recommending to the sentencing court suitable
162 candidates for placement in a community-based residential drug
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163 treatment facility ~~or probation and restitution center~~ as
164 provided in this section. The department shall also develop and
165 implement procedures to properly identify inmates prior to
166 release who demonstrate the need for or interest in and
167 suitability for placement in a community-based substance abuse
168 transition housing program as provided in this section and
169 pursuant to ss. 944.4731 and 944.704.

170 ~~(b) Pretrial intervention programs in appropriate counties~~
171 ~~to provide early counseling and supervision services to~~
172 ~~specified offenders as provided in s. 948.08.~~

173 Section 3. Section 944.8041, Florida Statutes, is amended
174 to read:

175 944.8041 Elderly offenders; annual review.--For the
176 purpose of providing information to the Legislature on elderly
177 offenders within the correctional system, the department ~~Florida~~
178 ~~Corrections Commission~~ and the Correctional Medical Authority
179 shall each submit annually a report on the status and treatment
180 of elderly offenders in the state-administered and private state
181 correctional systems, as well as such information on the River
182 Junction Correctional Institution. In order to adequately
183 prepare the reports, the Department of Corrections and the
184 Department of Management Services shall grant access to ~~the~~
185 ~~Florida Corrections Commission~~ and the Correctional Medical
186 Authority which includes access to the facilities, offenders,
187 and any information the agencies require to complete their
188 reports. The review shall also include an examination of
189 promising geriatric policies, practices, and programs currently
190 implemented in other correctional systems within the United
191 States. The reports, with specific findings and recommendations

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192 for implementation, shall be submitted to the President of the
193 Senate and the Speaker of the House of Representatives on or
194 before December 31 of each year.

195 Section 4. Paragraphs (d), (e), and (f) of subsection (1)
196 of section 945.025, Florida Statutes, are amended to read:

197 945.025 Jurisdiction of department.--

198 (1) The Department of Corrections shall have supervisory
199 and protective care, custody, and control of the inmates,
200 buildings, grounds, property, and all other matters pertaining
201 to the following facilities and programs for the imprisonment,
202 correction, and rehabilitation of adult offenders:

203 ~~(d) Department of Corrections Probation and Restitution~~
204 ~~Center;~~

205 ~~(e)~~ Department of Corrections community correctional
206 centers; and

207 (e)~~(f)~~ Department of Corrections vocational centers.

208 Section 5. Subsection (2) of section 948.03, Florida
209 Statutes, is amended to read:

210 948.03 Terms and conditions of probation.--

211 (2) The enumeration of specific kinds of terms and
212 conditions shall not prevent the court from adding thereto such
213 other or others as it considers proper. However, the sentencing
214 court may only impose a condition of supervision allowing an
215 offender convicted of s. 794.011, s. 800.04, s. 827.071, or s.
216 847.0145, to reside in another state, if the order stipulates
217 that it is contingent upon the approval of the receiving state
218 interstate compact authority. The court may rescind or modify at
219 any time the terms and conditions theretofore imposed by it upon
220 the probationer. However, if the court withholds adjudication of
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221 | guilt or imposes a period of incarceration as a condition of
222 | probation, the period shall not exceed 364 days, and
223 | incarceration shall be restricted to either a county facility, a
224 | ~~probation and restitution center under the jurisdiction of the~~
225 | ~~Department of Corrections,~~ a probation program drug punishment
226 | phase I secure residential treatment institution, or a community
227 | residential facility owned or operated by any entity providing
228 | such services.

229 | Section 6. Subsection (1) of section 948.035, Florida
230 | Statutes, is amended to read:

231 | 948.035 Residential treatment as a condition of probation
232 | or community control.--

233 | (1) If the court imposes a period of residential treatment
234 | or incarceration as a condition of probation or community
235 | control, the residential treatment or incarceration shall be
236 | restricted to the following facilities:

237 | (a) ~~A Department of Corrections probation and restitution~~
238 | ~~center;~~

239 | ~~(b)~~ A probation program drug punishment treatment
240 | community;

241 | (b)~~(e)~~ A community residential facility which is owned and
242 | operated by any public or private entity, excluding a community
243 | correctional center as defined in s. 944.026; or

244 | (c)~~(d)~~ A county-owned facility.

245 | Section 7. Subsections (1) and (8) of section 948.08,
246 | Florida Statutes, are amended, and subsection (9) is added to
247 | that section, to read:

248 | 948.08 Pretrial intervention program.--

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249 (1) At its discretion, each county may operate and ~~The~~
250 ~~department shall~~ supervise pretrial intervention programs for
251 persons charged with a crime, before or after any information
252 has been filed or an indictment has been returned in the circuit
253 court. Such programs shall provide appropriate counseling,
254 education, supervision, and medical and psychological treatment
255 as available and when appropriate for the persons released to
256 such programs. Effective July 1, 2007, the department shall no
257 longer be responsible for the supervision of pretrial
258 intervention programs, including the supervision of offenders in
259 pretrial intervention programs.

260 (8) The county ~~department~~ may contract for the services
261 and facilities necessary to operate pretrial intervention
262 programs.

263 (9) The Department of Corrections shall no longer
264 supervise offenders under pretrial intervention supervision
265 effective July 1, 2007, but the county may supervise such
266 offenders if the county elects to continue a pretrial
267 supervision program or may be referred to the State Attorney's
268 Office for further consideration.

269 Section 8. Subsection (2) of section 948.101, Florida
270 Statutes, is amended to read:

271 948.101 Terms and conditions of community control and
272 criminal quarantine community control.--

273 (2) The enumeration of specific kinds of terms and
274 conditions does not prevent the court from adding thereto any
275 other terms or conditions that the court considers proper.
276 However, the sentencing court may only impose a condition of
277 supervision allowing an offender convicted of s. 794.011, s.
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278 800.04, s. 827.071, or s. 847.0145 to reside in another state if
279 the order stipulates that it is contingent upon the approval of
280 the receiving state interstate compact authority. The court may
281 rescind or modify at any time the terms and conditions
282 theretofore imposed by it upon the offender in community
283 control. However, if the court withholds adjudication of guilt
284 or imposes a period of incarceration as a condition of community
285 control, the period may not exceed 364 days, and incarceration
286 shall be restricted to a county facility, ~~a probation and~~
287 ~~restitution center under the jurisdiction of the Department of~~
288 ~~Corrections~~, a probation program drug punishment phase I secure
289 residential treatment institution, or a community residential
290 facility owned or operated by any entity providing such
291 services.

292 Section 9. Paragraph (b) of subsection (4) of section
293 948.51, Florida Statutes, is amended to read:

294 948.51 Community corrections assistance to counties or
295 county consortiums.--

296 (4) PURPOSES OF COMMUNITY CORRECTIONS FUNDS.--

297 (b) Programs, services, and facilities that may be funded
298 under this section include, but are not limited to:

- 299 1. Programs providing pretrial services.
- 300 2. Specialized divisions within the circuit or county
301 court established for the purpose of hearing specific types of
302 cases, such as drug cases or domestic violence cases.
- 303 3. Work camps.
- 304 4. Programs providing intensive probation supervision.
- 305 5. Military-style boot camps.
- 306 6. Work-release facilities.

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307 7. Centers to which offenders report during the day.

308 8. ~~Restitution centers.~~

309 ~~9.~~ Inpatient or outpatient programs for substance abuse
310 treatment and counseling.

311 ~~9.10.~~ Vocational and educational programs.

312 Section 10. Subsections (3), (4), and (5) of section
313 951.231, Florida Statutes, are amended to read:

314 951.231 County residential probation program.--

315 (3) ~~A local government having an existing Department of~~
316 ~~Corrections probation and restitution center within its~~
317 ~~boundaries with current available capacity may contract with the~~
318 ~~Department of Corrections to house prisoners sentenced in~~
319 ~~accordance with s. 921.18.~~

320 (4) A local government having an existing Department of
321 Corrections probation and restitution center within its
322 boundaries without current available capacity, or a local
323 government not having an existing Department of Corrections
324 probation and restitution center within its boundaries, may
325 provide facilities either through construction, purchase, or
326 lease of new facilities or purchase, renovation, or lease of
327 existing facilities.

328 (4)(5) Local governments participating in this program may
329 apply to the Department of Corrections for funding. The
330 department shall allocate the funding for this program to the
331 extent authorized in the General Appropriations Act.

332 Section 11. Paragraph (e) of subsection (1) of section
333 957.04, Florida Statutes, is amended to read:

334 957.04 Contract requirements.--

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335 (1) A contract entered into under this chapter for the
336 operation of private correctional facilities shall maximize the
337 cost savings of such facilities and shall:

338 (e) Establish operations standards for correctional
339 facilities subject to the contract. However, if the department
340 and the contractor disagree with an operations standard, the
341 contractor may propose to waive any rule, policy, or procedure
342 of the department related to the operations standards of
343 correctional facilities which is inconsistent with the mission
344 of the contractor to establish cost-effective, privately
345 operated correctional facilities. The Department of Management
346 Services ~~Florida Corrections Commission~~ shall be responsible for
347 considering all proposals from the contractor to waive any rule,
348 policy, or procedure and shall render a final decision granting
349 or denying such request.

350 Section 12. Subsection (5) of section 957.07, Florida
351 Statutes, is amended to read:

352 957.07 Cost-saving requirements.--

353 (5) (a) At the request of the Speaker of the House of
354 Representatives or the President of the Senate ~~By February 1~~
355 ~~each year~~, the Prison Per-Diem Workgroup shall develop consensus
356 per diem rates for use by the Legislature ~~to be used when~~
357 ~~determining per diem rates of privately operated prisons~~. The
358 Office of Program Policy Analysis and Government Accountability,
359 ~~the Office of the Auditor General~~, and the staffs of the
360 appropriations committees of both the Senate and the House of
361 Representatives are the principals of the workgroup. The
362 workgroup may consult with other experts to assist in the
363 development of the consensus per diem rates. All meetings of the

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364 | workgroup shall be open to the public as provided in chapter
365 | 286.

366 | (b) When developing the consensus per diem rates, the
367 | workgroup must:

368 | 1. Use data provided by the Department of Corrections from
369 | the most recent fiscal year to determine per diem costs for the
370 | following activities:

- 371 | a. Custody and control;
372 | b. Health services;
373 | c. Substance abuse programs; and
374 | d. Educational programs;

375 | 2. Include the cost of departmental, regional,
376 | institutional, and program administration and any other fixed
377 | costs of the department;

378 | 3. Calculate average per diem rates for the following
379 | offender populations: adult male, youthful offender male, and
380 | female; and

381 | 4. Make per diem adjustments, as appropriate, to account
382 | for variations in size and location of correctional facilities.

383 | ~~It is the intent of the Legislature that~~ The consensus
384 | per diem rates determined by the workgroup may shall be used to
385 | assist the Legislature in determining ~~determine~~ the level of
386 | funding provided to privately operated prisons to meet the,
387 | ~~which must reflect at least a 7-percent savings required of~~
388 | private prisons by this chapter ~~when compared to the Department~~
389 | ~~of Corrections.~~

390 | (d) If a private vendor chooses not to renew the contract
391 | at the appropriated level, the Department of Management Services
392 | shall terminate the contract as provided in s. 957.14.

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393 ~~(e) This subsection supersedes the proviso language~~
394 ~~immediately following Specific Appropriation 570 in the~~
395 ~~Conference Report on CS for SB 2-C.~~

396 Section 13. Paragraphs (b) and (c) of subsection (2) of
397 section 958.04, Florida Statutes, are amended to read:

398 958.04 Judicial disposition of youthful offenders.--

399 (2) In lieu of other criminal penalties authorized by law
400 and notwithstanding any imposition of consecutive sentences, the
401 court shall dispose of the criminal case as follows:

402 (b) The court may impose a period of incarceration as a
403 condition of probation or community control, which period of
404 incarceration shall be served in either a county facility, a
405 ~~department probation and restitution center~~, or a community
406 residential facility which is owned and operated by any public
407 or private entity providing such services. No youthful offender
408 may be required to serve a period of incarceration in a
409 community correctional center as defined in s. 944.026.
410 Admission to a department facility ~~or center~~ shall be contingent
411 upon the availability of bed space and shall take into account
412 the purpose and function of such facility ~~or center~~. Placement
413 in such a facility ~~or center~~ shall not exceed 364 days.

414 (c) The court may impose a split sentence whereby the
415 youthful offender is to be placed on probation or community
416 control upon completion of any specified period of
417 incarceration; however, if the incarceration period is to be
418 served in a department facility ~~other than a probation and~~
419 ~~restitution center~~ or community residential facility, such
420 period shall be for not less than 1 year or more than 4 years.
421 The period of probation or community control shall commence

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422 immediately upon the release of the youthful offender from
423 incarceration. The period of incarceration imposed or served and
424 the period of probation or community control, when added
425 together, shall not exceed 6 years.

426 Section 14. This act shall take effect July 1, 2006.

427

428 ===== T I T L E A M E N D M E N T =====

429 Remove the entire title and insert:

430 A bill to be entitled

431 An act relating to corrections; amending s. 921.187, F.S.;
432 deleting a provision authorizing probation and restitution
433 centers as a sentencing option; amending s. 944.026, F.S.;
434 deleting the Department of Corrections' responsibilities
435 and authority regarding probation and restitution centers;
436 deleting the department's responsibilities and authority
437 regarding pretrial intervention; amending s. 944.8041,
438 F.S.; requiring the Department of Corrections, in lieu of
439 the commission, to submit an annual report on certain
440 elderly offenders; amending s. 945.025, F.S.; revising the
441 jurisdiction of the Department of Corrections; amending s.
442 948.03, F.S.; deleting a provision authorizing probation
443 and restitution centers as an option for incarceration as
444 a condition of probation; amending s. 948.035, F.S.;
445 deleting a provision authorizing probation and restitution
446 centers as an option for court-ordered residential
447 treatment; amending s. 948.08, F.S.; authorizing counties
448 to supervise pretrial intervention offenders; authorizing
449 counties to contract for certain services and facilities;
450 amending s. 948.101, F.S.; deleting a provision

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451 authorizing probation and restitution centers as an option
452 for incarceration as a condition of community control;
453 amending s. 948.51, F.S.; deleting the authority of the
454 department to contract with a county for probation and
455 restitution centers; amending s. 951.231, F.S.; deleting
456 the authority of the department to contract to house
457 county prisoners and revising the conditions for a local
458 government to provide county residential probation
459 facilities; amending s. 957.04, F.S.; requiring the
460 Department of Management Services, in lieu of the
461 commission, to consider proposed waivers of rules,
462 policies, and procedures of the Department of Corrections
463 for contractors of private correctional facilities;
464 amending s. 957.07, F.S.; revising the membership of the
465 Prison Per-Diem Workgroup; revising meeting requirements
466 of the workgroup; revising information to be included in
467 the consensus per diem rates developed by the workgroup;
468 revising use of the per diem rates developed by the
469 workgroup; eliminating a provision that s. 957.07(5),
470 F.S., supersedes certain proviso language in the
471 Conference Report on CS for SB 2-C, ch. 2001-367, Laws of
472 Florida; amending s. 958.04, F.S.; deleting a provision
473 authorizing probation and restitution centers as an option
474 for judicial disposition for incarceration of youthful
475 offenders as a condition of probation or community
476 control; providing an effective date.

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