

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill requires county jail administrators to provide forms relating to restoration of civil rights to inmates prior to release.

B. EFFECT OF PROPOSED CHANGES:

The civil rights of a convicted felon such are the right to vote, the right to serve on a jury and the right to hold public office are suspended until restored by pardon or restoration of civil rights.¹ Restoration of civil rights is a form of executive clemency – a power granted by the Florida Constitution to the Governor with the consent of at least two members of the Cabinet. Art. IV, s. 8(a), Fla. Const. In this situation, the Governor and Cabinet are known as the Clemency Board. Convicted felons are eligible for restoration of civil rights (except the right to own, possess, or use firearms) without a hearing upon completion of sentence or supervision if they meet certain criteria set forth in the Rules of the Clemency Board. If not eligible for restoration of civil rights without a hearing, the felon may apply for a hearing to determine whether his or her civil rights will be restored. In certain cases, convicted felons must request a waiver of clemency rules to be eligible for consideration.

The Florida Parole Commission acts as the agent of the Clemency Board in determining whether offenders and inmates are eligible for restoration of rights without a hearing, investigating applications and conducting hearings when required, and making recommendations to the Board. The Department of Corrections' participation in the process is required by the following two statutes:

- s. 940.061, F.S., requires the department to inform and educate inmates and offenders on community supervision about the restoration of civil rights and to assist eligible inmates and offenders on community supervision with completion of the application for restoration of civil rights.
- s. 944.293, F.S., requires the department to assist offenders under supervision in completing the application and necessary forms and to ensure that the application and other necessary information is forwarded to the Governor before the offender is released from supervision.

A person seeking restoration of civil rights can initiate the process by applying online, by telephone, in person, or in writing.

In recent years, the department and the Parole Commission have reportedly coordinated efforts in order to make restoration of civil rights less difficult for incarcerated felons who will be eligible for restoration without a hearing upon release. The department provides the commission with a computerized list of all eligible inmates who are being released from prison or supervision. If the commission determines that the individual is eligible for restoration of civil rights without a hearing, the individual's name is submitted to the Clemency Board and if no objection is received from two or more board members, the individual's rights are restored. If the commission determines that the individual is ineligible for restoration of civil rights without a hearing or two or more board members object, the commission send the individual an application for restoration of civil rights with a hearing.

There is no statutory requirement for county jails to provide county jail prisoners with education or assistance regarding civil rights restoration. Any education or assistance that is currently provided is initiated locally.

¹ Art. VI, section 4 of the Florida Constitution. See also, s. 40.013, F.S.

This bill would require the administrator of a county detention facility to provide an application form obtained from the Parole Commission relating to restoration of civil rights to a prisoner who has been convicted of a felony at least two weeks before discharge, if possible. It would then be the prisoner's responsibility to fill out the form.

The bill provides that the administrator of the county detention facility may allow volunteers to help the prisoners complete their application.

The proposed legislation does not apply to prisoners who are released to the custody of the Department of Corrections. Those prisoners are exempted from this legislation because their restoration of civil rights process would be covered by the Department of Corrections as discussed above. Also, by implication this bill would only apply to those inmates who have in fact lost their civil rights by reason of commission of a felony.

C. SECTION DIRECTORY:

Section 1. Requires administrator of county detention facility to provide application form for restoration of civil rights to a prisoner in certain circumstances.

Section 2. Provides effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There will be some costs to the counties in implementing the provisions of the bill but the specific amount is not determinable. However, the impact will be dependent upon the number of eligible prisoners in a particular county. According to data supplied by the Department of Corrections, it is estimated that approximately 43,000 felons were sentenced to county detention facilities between July 1, 2003, and June 30, 2004.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill requires the administrator of a county detention facility to provide certain prisoners with an application form for civil rights restoration. It is anticipated that any fiscal impact on local counties will be insignificant and it therefore appears that the provision of the bill is exempt from Article VII, Section 18 of the Florida Constitution which prohibits unfunded mandates.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill would require the administrator of a county jail to provide a restoration of civil rights application to all inmates who have been convicted of a felony prior to their release. The bill excludes inmates subsequently sent to the Department of Corrections. However, the bill would apparently require that the application form be provided to prisoners who are being released from jail but have a term of probation to follow despite the fact that these inmates would be ineligible to have their civil rights restored before the probationary term is completed.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES