

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 2616
 INTRODUCER: Senator Joyner
 SUBJECT: Inmate Re-entry to the Workforce
 DATE: April 2, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Pre-meeting
2.			GO	
3.			JA	
4.				
5.				
6.				

I. Summary:

This bill addresses programs within the Department of Corrections (department) to reduce recidivism by improving the opportunity for inmates to successfully reenter society after release from incarceration. Its provisions:

- Require the department to conduct a vocational assessment during an offender’s post-sentence intake.
- Require the department to include information concerning federal bonding and tax credits for former inmates in its release orientation program.
- Authorize the department to issue photographic identification cards to all inmates immediately prior to release, and require state agencies to accept department-issued identification cards.
- Create third degree felonies for various forms of misuse of a department-issued identification card.
- Require the department to assist inmates in obtaining a Social Security card and an identification card issued pursuant to s. 322.051, F.S.
- Require the department to develop partnerships with the Florida Community College system to secure vocational training and financial aid for releasees.
- Allow both the department and the Agency for Workforce Innovation (AWI) to adopt rules to implement the Transition Assistance Program Act.
- Require the department to select vocational training programs in conjunction with labor market studies from AWI.
- Mandate more specific requirements for participation in department academic education programs.

- Require state agencies and boards to submit a report by December 31, 2009, to legislative leaders and appropriate committee chairs identifying statutory and policy restrictions on the employment of ex-offenders and alternatives that are compatible with protecting public safety.
- Direct the department to prepare a report and recommendations concerning the work release program for the governor and legislative leaders by December 1, 2009.

This bill substantially amends sections 944.012, 944.024, 944.705, 944.707, 944.708 and 944.801, and creates section 944.7055, of the Florida Statutes.

II. Present Situation:

The Department of Corrections (department) has custody of nearly 100,000 inmates, almost 90 percent of whom will be released one day. In Fiscal Year 2007-2008, 37,108 inmates were released from the state's correctional facilities but statistics indicate that more than 11,000 will be reincarcerated within 3 years.

In May 2007, the department revised its mission statement to include assisting offenders with reentry into society in order to reduce recidivism and to lower crime rates. The department's goal is to bring down the recidivism rate from its current rate of 32 percent to 20 percent by 2012.

Transitional Program Assistance Act

The Legislature passed the Transitional Assistance Program (TAP) Act in 1987. The intent of the TAP Act is to "provide persons released from incarceration from the Department of Corrections with certain fundamental resources in the areas of employment, life skills training, job placement, and access to as many support services as possible in order to appreciably increase the likelihood of the inmate's successful reentry into free society."¹ The department is required to provide a transition assistance specialist at each major institution to coordinate transition services at the institution and community correctional facilities. Specific duties of the transition assistance specialist include: assisting in the development of each inmate's post-release plan, obtaining job placement information, providing the inmate with a medical discharge plan including post-release referral to a county health department, providing a 30-day supply of HIV/AIDS medicines to HIV-positive inmates, facilitating placement in a private transition housing program if requested, and providing the inmate with a photo identification card.

The TAP Act also requires that every inmate complete a 100-hour transition course prior to release. The course covers job readiness and life management skills. In addition, the department is required to provide support services such as substance abuse counseling, family counseling, and employment support services to releasees who are identified as needing services by the pre-release needs assessment. Providers for these services may be private secular or faith-based service groups. The department conducts monthly Re-entry Seminars as part of the 100-hour transition program. The focus is to provide inmates with up-to-date information regarding employment opportunities, community resources, social services, housing, food, and other resources to ensure a smooth transition back to their respective communities.²

¹ s. 944.702, F.S. The entire Act is codified at ss. 944.701-708, F.S.

² Transcript of remarks by Secretary Walter A. McNeil at the Restoration of Rights Summit in Tallahassee, Florida, June 17, 2008, viewed on September 24, 2008 at http://free-rein.us/McNeil_Restoration_of_Rights_Summit_speech_06_18_08.pdf.

Due to funding constraints, the requirements of the TAP Act have not been fully implemented. For example, funding for transition assistance specialists was eliminated in 2003. Classification officers, who are tasked with a range of tasks other than transition assistance, provide the transition assistance function to the extent possible. The 100-hour transition course was formerly taught by an instructor who engaged in interaction with the inmates in a classroom setting. Now, in most cases the course is viewed by the inmates on video along with self-study from a textbook. The department is developing a workbook that is designed for self-study and is written at a lower reading level.

Inability to Find Employment

Florida law explicitly recognizes that “(o)ne of the chief factors contributing to the high recidivism rate in the state is the general inability of ex-offenders to find or keep meaningful employment.”³ The department has programs to address the employability of ex-offenders in the areas of education and placement assistance.

Educational Programs

The department operates academic education programs at approximately 48 major institutions and annexes, and local education agencies operate programs in another 6 facilities. In Fiscal Year 2007-0818, 243 inmates were enrolled in the academic education program and 1,733 inmates were awarded GED (General Education Development) high school equivalency certificates.⁴

The department assesses the educational level of inmates upon their entry into the correctional system and throughout their period of incarceration. The median test score for inmates who entered the system in FY 2005-2006 was 6.6, which is equivalent to a sixth grade education.⁵ Inmates are eligible for academic services in accordance with their level of education as determined by the test scores. Inmates who score below a 6th grade reading level and who have at least two years remaining on their sentence must take a 150-hour literacy training program.⁶ Those with scores below ninth grade level may be eligible for Adult Basic Education (ABE) classes, and those with higher scores may be placed in classes to earn their GED certificate or learn a skill in a vocational class. In addition, there are special education classes for inmates who are eligible for special services under state and federal law.

Vocational education courses are offered in 32 different occupational skills. Thirty four institutions offer one or more of the programs, and successful completion leads to certification in occupational areas ranging from construction trades to computer programming. Certification in any of these areas increases the chances of obtaining employment after release.

In its 2007 review of corrections rehabilitative programs, the Office of Program Policy Analysis and Government Accountability (OPPAGA) studied the completion rate of inmates in the

³ Successful completion of a substance abuse program also enhances employability. Substance abuse programs are discussed in a separate section of this analysis.

⁴ Department of Corrections Analysis of SB 2616 (Department Analysis), p. 3-4.

⁵ This grade level is based upon the Tests of Adult Basic Education (TABE). An extensive discussion of this topic can be found in OPPAGA Report No. 07-14, Corrections Rehabilitative Programs Effective, But Serve Only a Portion of the Eligible Population, February 2007.

⁶ Prior to July 2006, the threshold score for the Mandatory Literacy Program was anything below 9th grade level.

various academic programs. GED and vocational programs in FY 2005-2006 had completion rates of 79 percent and 73 percent respectively. The completion rate for inmates who began the Adult Basic Education program was only 10 percent. This may be attributable in part to the longer length of the program (two years), which raises the chances of the inmate getting removed from the program for disciplinary or administrative reasons. Over 64 percent of the inmates were released before completing the program.

OPPAGA found that inmates of either gender who completed a vocational program had lower recidivism rates than non-completers, and that male GED program completers were less likely to reoffend than male non-completers. Completion of the ABE program did not have a statistically significant impact on recidivism.⁷

Although the GED and vocational programs have high completion rates and have been shown to reduce recidivism, there are relatively few slots for inmates in the programs. In 2005-2006, 33,348 inmates were released from incarceration. Approximately 65 percent of those left with Tests of Adult Basic Education scores below the ninth grade level, 11,987 left without participating in academic programs for which they were eligible, and 8,816 left without participating in vocational programs for which they were eligible. Since FY 2000-2001, the educational budget has decreased by 24 percent while inmate population has increased by the same percentage. This has resulted in fewer educational opportunities and reduced quality as more inmate teaching assistants are used in lieu of fully-qualified instructors.

Community Work Release

Work release is a transition program through which the department selects inmates to work at paid employment in the community while they serve the remainder of their sentence. The department is statutorily authorized to place an inmate in work release programs during the last 36 months of his or her sentence, but the department has limited that time to 14 months by rule. Inmates who are on work release have jobs in the community, but live at a non-secure correctional facility. Work release inmates are required to pay room and board, victim restitution, and to contribute to savings. The program is designed to give inmates a chance to enhance employment skills and to re-establish ties with family and the community prior to release.

The department's use of work release as a transition program has fluctuated over time since the first work release program was initiated in 1967.⁸ In 2006, there were 2,997 work release beds in 29 centers. This was the largest number of beds since 1996 and an 847 bed increase from the lowest point in 2001. However, the percentage of community work release inmates compared to the total population has declined from 4.0 percent to 3.3 percent since 1996.⁹ OPPAGA has called for the department to expand the use of work release, but the department is limited by an internal policy that requires it to have a bed available in a secure facility for every inmate in a contracted work release facility.¹⁰

⁷ OPPAGA Report No. 07-14, *supra*, which examined completion rates over the 2005-2006 time period.

⁸ A thorough discussion of the history of the operation and policies concerning work release can be found in Senate Interim Project 2004-127, *A Review of the Department of Corrections' Inmate Work-Release Law*, January 2004.

⁹ See Senate Interim Project 2004-127, *supra*, and OPPAGA Report Number 07-17, *Higher Priority Should Be Given to Transition Services to Reduce Inmate Recidivism*, February 2007.

¹⁰ OPPAGA Report No. 07-17, *supra*.

The department currently operates 20 work release centers and contracts for the operation of 13 work release centers. It recently opened a new type of correctional facility, called a transition facility, at Demilly Correctional Institution in Polk County. The transition facility houses 350 male inmates who are in the last 3 years of their sentence. It provides substance abuse treatment programs, vocational and academic education, and re-entry skill training. Successful inmates will be moved into work release centers to serve the remainder of their sentence.¹¹

Assistance with Job Placement

The department has entered into a memorandum of agreement with AWI and Workforce Florida Incorporated. The agreement establishes cooperative relationships with local Workforce Boards and One-Stop Centers to facilitate statewide job placements and community resource referrals for ex-offenders.

Section 944.012, F.S., states legislative intent that AWI have a representative within major institutions where possible. AWI indicates that it is not able to have staff located at institutions, but does have some staff (usually veterans representatives) who visit institutions.¹²

Identification and Social Security Cards

Inmates are issued an identification card during the reception process and are required to display it at all times while incarcerated. They may retain the identification card for use when released from prison. However, the inmate identification card carries an inherent stigma and is not always accepted as identification. Any other identification that the inmate had when incarcerated, such as a driver's license or social security card, is returned to them upon release. However, many inmates do not bring identification with them when they enter prison, and identification left with someone else is often either lost or expired by the time they are released. Without proper identification and documentation upon release, inmates may be unable to acquire public assistance, legitimate transportation or employment, and housing.

Section 322.051, F.S., provides for issuance of an official state identification card by the Department of Highway Safety and Motor Vehicles (DHSMV). Issuance of a state identification card requires presentation of documentation that is sufficient to prove the applicant's identity in accordance with the state statute and the federal REAL ID Act. Many released inmates do not have this required documentation, and very few have it available while they are incarcerated.

In August 2007, the department conducted a pilot program with DHSMV at Wakulla Correctional Institution. Thirty-one of thirty-four inmates who participated received an identification card. In the course of conducting the pilot project, the department discovered that 85 percent of inmates in the correctional system have a record of previous identification with the DHSMV. At the time, an inmate who previously had a driver's license would have been able to easily obtain a replacement from the local driver's license office upon release. However, the new statute that became effective on October 1, 2008, in accordance with the federal REAL ID Act has changed documentation requirements and will make obtaining a new driver's license or identification card more difficult.

¹¹ Department of Corrections March 20, 2009 Press Release, "Opening of Demilly Correctional Institution with emphasis on Successful Inmate Re-Entry into Society."

¹² Agency for Workforce Innovation Analysis of SB 2616 (AWI Analysis), p. 1.

The department entered into a Memorandum of Understanding with the Social Security Administration (SSA) on February 24, 2009, to expedite the process for inmates to obtain replacement Social Security cards when they are released. Under this agreement, inmates are able to request a social security card without necessarily supplying a copy of their identification card or driver's license. However, there are restrictions: (1) only applications for a replacement social security card can be processed; (2) the inmate must already have a social security number; (3) the inmate must have never used different social security numbers; and (4) all information on the application for a replacement card must exactly match information in the SSA records. The release officer must review the inmate record, fill out a form verifying the identity of the inmate, and mail it to the SSA along with the social security application.¹³

Federal Second Chance Act Grants

Congress passed the Second Chance Act of 2007 (Public Law 110-199) in an attempt to help inmates safely and successfully transition back into the community. The Second Chance Act adds numerous grants and opportunities for extending re-entry efforts at the state and local levels. Among its many initiatives, this bill authorizes the U.S. Justice Department's National Institute of Justice and the Bureau of Justice Statistics to conduct reentry-related research. The National Institute of Justice has found that one year after release, up to 60 percent of former inmates are not employed. The Second Chance Act will also establish a national resource center to collect and disseminate best practices and provide training on and support for reentry efforts. It provides for community and faith-based organizations to deliver mentoring and transitional services to inmates returning to the community. It will also help connect inmates to mental health and substance abuse treatment, expand job training and placement services, and facilitate transitional housing and case management services.

The department has two grants funded under this act: the 2006 Prisoner Reentry Initiative (Targeting Lifetime Success) in Broward, Palm Beach, and Dade Counties, and the 2007 Prisoner Reentry Initiative (Bridges to Success) in Duval County.

III. Effect of Proposed Changes:

Section 1 updates a reference in s. 944.012(5), F.S., from the "Florida State Employment Service" to the "Agency for Workplace Innovation."

Section 2: Amends s. 944.024(5), F.S., to require that an offender's post-sentence intake must include a vocational assessment. The purpose of the assessment is to provide early identification of appropriate placement in vocational programs.

Section 3 creates a new subsection in s. 944.705, F.S., requiring the department to provide inmates and potential employers with information about federal bonding and tax credits for former inmates. The department indicates that this information is currently provided to inmates as part of the 100-hour transition course curriculum. The department does not have a formal outreach program to provide information about tax credits or bonding to prospective employers.

¹³ Department Analysis, p. 3.

Section 4 creates s. 944.7055, F.S., concerning inmate identification cards. The new section authorizes the department to issue photographic inmate identification cards prior to release, and provides that such cards must be accepted by state agencies as a valid form of identification. It also prohibits unauthorized possession, use, or transfer of a properly issued inmate identification card or an altered or counterfeit inmate identification card. Commission of one of the prohibited actions constitutes a third degree felony, which is punishable by imprisonment for up to 5 years and a fine of up to \$5000. The new felony offense is not ranked on the Criminal Punishment Code ranking chart. Any law enforcement agency may investigate a violation of the section.

The department already issues a photographic identification card to inmates, and they are permitted to retain the card upon release. However, the requirement that the card be accepted as proof of identification by any state agency would be problematic for DHSMV and other agencies that are required to comply with federal security requirements, such as the REAL ID Act, as well as Florida statutes.

This section of the bill also requires the department to assist inmates in obtaining a social security card and an identification card issued by DHSMV pursuant to s. 322.051, F.S. As discussed in the Present Situation section of this analysis, the department is working with the SSA to obtain replacement Social Security cards for inmates upon release. However, most inmates lack sufficient documentation for the department to be able to assist them in obtaining an original Social Security number or a state identification card.

Section 5 amends s. 944.707, F.S., to authorize the department to partner with public or private organizations for prerelease needs assessment, prerelease preparation, and support services. Current law authorizes the department to contract with public or private organizations for prerelease needs assessment and support services. The department is also directed to develop partnerships with the Florida Community College System to secure vocational training and potential financial aid for released inmates.

Section 6 amends s. 944.708, F.S., to authorize AWI, as well as the department, to adopt rules to implement the TAP Act.

Section 7 amends s. 944.801, F.S., to create two new responsibilities for the Correctional Education Program. These are:

- Development of a plan to identify inmates who have an education level below ninth grade requirements so that they can participate in the GED program.
- Inclusion of inmates who have a TABE score of seventh grade or below in the department's reading initiative.

Currently, students with a TABE score below the sixth grade level are required to participate in the mandatory literacy program. In its analysis of the bill, the department expresses concern that mandating participation in the literacy program by inmates with seventh grade level TABE scores would require a shift of resources from GED programs, with a potential loss of federal funding that use GED awards as a performance measure.¹⁴ However, s. 944.801(3)(i), F.S.,

¹⁴ Department Analysis, p. 8.

already provides that it is a function of the Correctional Education Program to ensure that inmates who lack basic and functional literacy skills, as defined in s. 1004.02, F.S., participate in the 150-hour mandatory literacy program. Section 1004.02, F.S., defines basic literacy as academic competence from a 2.0 to a 5.9 educational grade level, and functional literacy as academic competence from a 6.0 to a 8.9 educational grade level.

This section also makes technical amendments to replace obsolete references to the Department of Labor and Employment Security with references to the Agency for Workforce Innovation.

Section 8 sets forth the Legislature's intent to remove unnecessary barriers to employment. It also requires each state agency, including professional and occupational regulatory boards, to submit a report to the President of the Senate, the Speaker of the House, and appropriate committee chairs by December 31, 2009. This report must include:

- A list of laws, rules, policies, and practices that disqualify ex-offenders from employment.
- A conclusion as to whether each disqualification is clearly stated in writing and available to prospective employees, and a statement of any less restrictive measures that would protect public safety while making more employment opportunities available to ex-offenders.
- Proposed alternative policies that would more clearly describe the basis for denial if the restriction is based upon good moral character, commission of a crime of moral turpitude, or commission of unspecified crimes that are related to the specific occupation.
- Proposed ways to remove barriers to employment that are not statutorily mandated.
- Proposed amendments to statutes that would reduce employment barriers, clarify qualification requirements, and create consistency of requirements between occupations with similar characteristics or that require nearly identical degrees of trustworthiness and responsibility.

Section 9 requires the department to provide a report and recommendation concerning work release for the Governor and legislative leaders by December 1, 2009. The report must consider:

- Eligibility requirements for participation in the work release program, including modifications of the requirements to allow more inmates to participate.
- Increasing the number of available work release beds.
- Establishing work release centers in communities where the most ex-offenders will return.
- Specific recommendations for statutory changes to allow implementation of recommendations made in the report.

Section 10 provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill would have an impact on the private sector to the extent that it provides more employment opportunities for released inmates.

C. Government Sector Impact:

Both the Department of Corrections and the Agency for Workforce Innovation identify government sector fiscal costs as described below. However, the department assesses the overall fiscal impact as indeterminate because it cannot determine how much cost would be avoided by a reduction in recidivism as a result of the bill.¹⁵

The department indicates that implementation of the education requirements in Section 7 of the bill would require a significant investment in additional equipment and employees. Currently, 40,630 inmates have TABE test scores below the seventh grade level, and the department's academic education programs have a capacity of 5078 students. The department indicates that it would be necessary to employ an additional 79 records specialists, 58 placement and transition specialists, and 163 teachers, and to create 43 additional computer-based reading labs. This has a total annual recurring cost of over \$15.5 million annually.

The department also estimates that performing a vocational assessment for all inmates would initially cost \$1.7 million, and that it would cost \$70,000 annually thereafter.

The department assesses the initial cost of purchasing and maintaining machines to produce identification cards as \$2.2 million, with a \$200,000 annual cost thereafter. The department notes that it would be more efficient and less costly to electronically transfer data to DHSMV for production of the cards. This estimate assumes that the inmate identification card that is already issued by the department would not satisfy the bill's requirements.

¹⁵ Department analysis, p. 11. An informal analysis by staff indicates that reduction of the rate of recidivism by 1 percent for a single year-group of releasees would result in savings of approximately \$9 million for each year that the releasees would otherwise be reincarcerated.

The department estimates that it would cost approximately \$500,000 annually to obtain birth certificates for releasees.

The agency estimates that providing two staff in each region to visit major institutions on a rotating basis would cost \$396,060 in the first year and have a recurring annual cost of \$367,560.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 910 includes a requirement for a report by agencies that is similar to the report required by Section 8 of this bill.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.