

1                   A bill to be entitled  
2           An act relating to criminal justice; amending s. 940.061,  
3           F.S.; requiring the Department of Corrections to send the  
4           Parole Commission a monthly electronic list containing the  
5           names of inmates released from incarceration and offenders  
6           who have been terminated from supervision and who may be  
7           eligible for restoration of civil rights; repealing s.  
8           944.293, F.S., relating to procedures for initiation of  
9           civil rights restoration; amending s. 944.35, F.S.;  
10          applying provisions prohibiting sexual misconduct to  
11          employees of private correctional facilities; providing  
12          penalties; creating s. 945.604, F.S.; defining the term  
13          "claim" for purposes of the State of Florida Correctional  
14          Medical Authority act; providing for filing and payment of  
15          medical claims for payment or underpayment; providing for  
16          filing and payment of claims for overpayment; providing  
17          for recovery of overpayment of claims; creating s.  
18          945.6041, F.S.; providing definitions; providing limits on  
19          reimbursement for certain inmate medical expenses when  
20          there is no contract between the Department of Corrections  
21          or a private correctional facility and the health care  
22          provider or provider of emergency medical transportation  
23          services; amending s. 947.1405, F.S.; providing that  
24          persons on supervision who are electronically monitored  
25          pay for the monitoring; providing exceptions; providing  
26          for disposition of funds collected; amending s. 948.001,  
27          F.S.; deleting the definition of the term "criminal  
28          quarantine community control"; amending s. 775.0877, F.S.;

29 | revising the penalty for criminal transmission of HIV;  
30 | conforming provisions to changes made by the act; amending  
31 | ss. 384.34, 796.08, and 921.187, F.S.; conforming  
32 | provisions to changes made by the act; amending s. 948.01,  
33 | F.S.; providing for development and distribution of  
34 | uniform order of supervision forms; requiring use of such  
35 | forms; amending s. 948.03, F.S.; providing as a condition  
36 | of probation, community control, or any other form of  
37 | court-ordered supervision that an offender live without  
38 | violating any law; providing that a conviction in a court  
39 | of law is not necessary for a violation of law to  
40 | constitute a violation of such a condition; eliminating a  
41 | requirement that a probation officer consent to possession  
42 | of a firearm by a probationer with court authorization;  
43 | requiring that an offender on probation or community  
44 | control submit to the taking of a digitized photograph;  
45 | providing for display of such photographs on the  
46 | department's public website while the offender is on  
47 | supervision; providing exceptions; amending s. 948.09,  
48 | F.S.; revising language relating to payments by persons on  
49 | supervision for the costs of electronic monitoring  
50 | services; providing exemptions; conforming a cross-  
51 | reference; amending s. 948.101, F.S.; deleting provisions  
52 | relating to criminal quarantine community control;  
53 | amending s. 948.11, F.S.; deleting provisions relating to  
54 | criminal quarantine community control; deleting the  
55 | requirement that for offenders being electronically  
56 | monitored, the Department of Corrections develop specified

57 | procedures concerning offender's noncompliance; deleting a  
58 | provision allowing the Department of Corrections to  
59 | contract for local law enforcement assistance with  
60 | noncompliant offenders; revising language relating to  
61 | payment for electronic monitoring to conform to changes  
62 | made by the act; amending s. 951.23, F.S.; eliminating the  
63 | requirements for collection of certain information from  
64 | the administrator of each county detention facility;  
65 | correcting a cross-reference; amending s. 958.045, F.S.;  
66 | requiring a report to be submitted to the court concerning  
67 | an offender's performance while in youthful offender basic  
68 | training within a specified period prior to the offender's  
69 | scheduled release; providing for specified court actions  
70 | if the offender's performance is satisfactory; amending s.  
71 | 960.292, F.S.; providing for retention of court  
72 | jurisdiction over certain offenders for a specified period  
73 | after release from incarceration or supervision for the  
74 | sole purpose of entering civil restitution orders;  
75 | amending s. 960.293, F.S.; providing that damages due from  
76 | an offender for correctional costs be based upon the  
77 | length of the sentence imposed by the court at the time of  
78 | sentencing; amending s. 960.297, F.S.; providing a time  
79 | period in which civil actions for the costs of  
80 | incarceration may be initiated; providing an effective  
81 | date.

82 |  
83 | Be It Enacted by the Legislature of the State of Florida:  
84 |

85 Section 1. Section 940.061, Florida Statutes, is amended  
 86 to read:

87 940.061 Informing persons about executive clemency and  
 88 restoration of civil rights.--The Department of Corrections  
 89 shall inform and educate inmates and offenders on community  
 90 supervision about the restoration of civil rights. The  
 91 Department of Corrections shall send the Parole Commission a  
 92 monthly electronic list containing the names of inmates released  
 93 from incarceration and offenders who have been terminated from  
 94 supervision and who may be eligible for restoration of civil  
 95 rights ~~and assist eligible inmates and offenders on community~~  
 96 ~~supervision with the completion of the application for the~~  
 97 ~~restoration of civil rights.~~

98 Section 2. Section 944.293, Florida Statutes, is repealed.

99 Section 3. Paragraph (b) of subsection (3) of section  
 100 944.35, Florida Statutes, is amended to read:

101 944.35 Authorized use of force; malicious battery and  
 102 sexual misconduct prohibited; reporting required; penalties.--

103 (3)

104 (b)1. As used in this paragraph, the term "sexual  
 105 misconduct" means the oral, anal, or vaginal penetration by, or  
 106 union with, the sexual organ of another or the anal or vaginal  
 107 penetration of another by any other object, but does not include  
 108 an act done for a bona fide medical purpose or an internal  
 109 search conducted in the lawful performance of the employee's  
 110 duty.

111 2. Any employee of the department or any employee of a  
 112 private correctional facility, as defined in s. 944.710, who

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113 engages in sexual misconduct with an inmate or an offender  
114 supervised by the department in the community, without  
115 committing the crime of sexual battery, commits a felony of the  
116 third degree, punishable as provided in s. 775.082, s. 775.083,  
117 or s. 775.084.

118 3. The consent of the inmate or offender supervised by the  
119 department in the community to any act of sexual misconduct may  
120 not be raised as a defense to a prosecution under this  
121 paragraph.

122 4. This paragraph does not apply to any employee of the  
123 department or any employee of a private correctional facility  
124 who is legally married to an inmate or an offender supervised by  
125 the department in the community, nor does it apply to any  
126 employee who has no knowledge, and would have no reason to  
127 believe, that the person with whom the employee has engaged in  
128 sexual misconduct is an inmate or an offender under community  
129 supervision of the department.

130 Section 4. Section 945.604, Florida Statutes, is created  
131 to read:

132 945.604 Medical claims.--

133 (1) DEFINITION OF "CLAIM."--As used in this section, for a  
134 noninstitutional health care provider the term "claim" means a  
135 paper or electronic billing instrument submitted to the  
136 department that consists of the HCFA 1500 data set, or its  
137 successor, that has all mandatory entries for a physician  
138 licensed under chapter 458, chapter 459, chapter 460, chapter  
139 461, or chapter 463 or a psychologist licensed under chapter 490  
140 or any appropriate billing instrument that has all mandatory

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141 entries for any other noninstitutional health care provider. For  
142 an institutional health care provider, the term "claim" means a  
143 paper or electronic billing instrument submitted to the  
144 department that consists of the UB-92 data set or its successor  
145 with entries stated as mandatory by the National Uniform Billing  
146 Committee.

147 (2) SUBMISSION DATE.--Claims for payment or underpayment  
148 are considered submitted on the date the claim for payment is  
149 mailed or electronically transferred to the department by the  
150 health care provider. Claims for overpayment are considered  
151 submitted on the date the claim for overpayment is mailed or  
152 electronically transferred to the health care provider by the  
153 department.

154 (3) CLAIMS FOR PAYMENT OR UNDERPAYMENT.--

155 (a) Claims for payment or underpayment must be submitted  
156 to the department within 6 months after the following have  
157 occurred:

158 1. The discharge of the inmate for inpatient services  
159 rendered to the inmate or the date of service for outpatient  
160 services rendered to the inmate; and

161 2. The health care provider has been furnished with the  
162 correct name and address of the department.

163 (b) Claims for payment or underpayment must not duplicate  
164 a claim previously submitted unless it is determined the  
165 original claim was not received or is otherwise lost.

166 (c) The department is not obligated to pay claims for  
167 payment or underpayment that were not submitted in accordance  
168 with paragraph (a).

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169        (4) CLAIMS FOR OVERPAYMENT.--

170        (a) If the department determines that it has made an  
171 overpayment to a health care provider for services rendered to  
172 an inmate, it must make a claim for such overpayment to the  
173 provider's designated location. The department shall provide a  
174 written or electronic statement specifying the basis for  
175 overpayment. The department must identify the claim or claims,  
176 or overpayment claim portion thereof, for which a claim for  
177 overpayment is submitted.

178        (b) The department must submit a claim for overpayment to  
179 a health care provider within 30 months after the department's  
180 payment of the claim, except that claims for overpayment may be  
181 submitted beyond that time from providers convicted of fraud  
182 pursuant to s. 817.234.

183        (c) Health care providers are not obligated to pay claims  
184 for overpayment that were not submitted in accordance with  
185 paragraph (b).

186        (d) A health care provider must pay, deny, or contest the  
187 department's claim for overpayment within 40 days after the  
188 receipt of the claim for overpayment.

189        (e) A health care provider that denies or contests the  
190 department's claim for overpayment or any portion of a claim  
191 shall notify the department, in writing, within 40 days after  
192 the provider receives the claim. The notice that the claim for  
193 overpayment is denied or contested must identify the contested  
194 portion of the claim and the specific reason for contesting or  
195 denying the claim and, if contested, must include a request for  
196 additional information.

197 (f) All contested claims for overpayment must be paid or  
 198 denied within 120 days after receipt of the claim. Failure to  
 199 pay or deny the claim for overpayment within 140 days after  
 200 receipt creates an uncontestable obligation to pay the claim.

201 (g) The department may not reduce payment to the health  
 202 care provider for other services unless the provider agrees to  
 203 the reduction or fails to respond to the department's claim for  
 204 overpayment as required by this subsection.

205 (5) NONWAIVER OF PROVISIONS.--The provisions of this  
 206 section may not be waived, voided, or nullified by contract.

207 Section 5. Section 945.6041, Florida Statutes, is created  
 208 to read:

209 945.6041 Inmate medical services.--

210 (1) As used in this section, the term:

211 (a) "Emergency medical transportation services" includes,  
 212 but is not limited to, services rendered by ambulances,  
 213 emergency medical services vehicles, and air ambulances as those  
 214 terms are defined in s. 401.23.

215 (b) "Health care provider" has the same meaning as  
 216 provided in s. 766.105.

217 (2) (a) If no contract for the provision of inmate medical  
 218 services exists between the department and a health care  
 219 provider or between a private correctional facility, as defined  
 220 in s. 944.710, and a health care provider, compensation for such  
 221 services may not exceed 110 percent of the Medicare allowable  
 222 rate.

223 (b) Notwithstanding paragraph (a), if no contract for the  
 224 provision of inmate medical services exists between the



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225 department and a health care provider or between a private  
226 correctional facility, as defined in s. 944.710, and a health  
227 care provider that reported to the Agency for Health Care  
228 Administration, through hospital-audited financial data, a  
229 negative operating margin for the previous year, compensation  
230 for such services may not exceed 125 percent of the Medicare  
231 allowable rate.

232 (3) If no contract for emergency medical transportation  
233 services exists between the department and an entity that  
234 provides emergency medical transportation services or between a  
235 private correctional facility, as defined in s. 944.710, and an  
236 entity that provides emergency medical transportation services,  
237 compensation for such services may not exceed 110 percent of the  
238 Medicare allowable rate.

239 (4) This section is not applicable to charges for medical  
240 services provided at any hospital operated by the department.

241 Section 6. Paragraph (b) of subsection (7) of section  
242 947.1405, Florida Statutes, is amended to read:

243 947.1405 Conditional release program.--

244 (7)

245 (b) For a releasee whose crime was committed on or after  
246 October 1, 1997, in violation of chapter 794, s. 800.04, s.  
247 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to  
248 conditional release supervision, in addition to any other  
249 provision of this subsection, the commission shall impose the  
250 following additional conditions of conditional release  
251 supervision:

252 1. As part of a treatment program, participation in a  
253 minimum of one annual polygraph examination to obtain  
254 information necessary for risk management and treatment and to  
255 reduce the sex offender's denial mechanisms. The polygraph  
256 examination must be conducted by a polygrapher trained  
257 specifically in the use of the polygraph for the monitoring of  
258 sex offenders, where available, and at the expense of the sex  
259 offender. The results of the polygraph examination shall not be  
260 used as evidence in a hearing to prove that a violation of  
261 supervision has occurred.

262 2. Maintenance of a driving log and a prohibition against  
263 driving a motor vehicle alone without the prior approval of the  
264 supervising officer.

265 3. A prohibition against obtaining or using a post office  
266 box without the prior approval of the supervising officer.

267 4. If there was sexual contact, a submission to, at the  
268 probationer's or community controllee's expense, an HIV test  
269 with the results to be released to the victim or the victim's  
270 parent or guardian.

271 5. Electronic monitoring of any form when ordered by the  
272 commission. Any person being electronically monitored by the  
273 department as a result of placement on supervision shall be  
274 required to pay the department for electronic monitoring  
275 services at a rate that may not exceed the full cost of the  
276 monitoring service. Funds collected pursuant to this  
277 subparagraph shall be deposited in the General Revenue Fund. The  
278 department may exempt a person from the payment of all or any

279 part of the electronic monitoring service if it finds that  
 280 factors exist as provided in s. 948.09(3).

281 Section 7. Subsections (4) through (10) of section  
 282 948.001, Florida Statutes, are renumbered as subsections (3)  
 283 through (9), respectively, and subsection (3) of that section is  
 284 amended to read:

285 948.001 Definitions.--As used in this chapter, the term:

286 ~~(3) "Criminal quarantine community control" means~~  
 287 ~~intensive supervision, by officers with restricted caseloads,~~  
 288 ~~with a condition of 24-hour-per-day electronic monitoring, and a~~  
 289 ~~condition of confinement to a designated residence during~~  
 290 ~~designated hours.~~

291 Section 8. Section 775.0877, Florida Statutes, is amended  
 292 to read:

293 775.0877 Criminal transmission of HIV; procedures;  
 294 penalties.--

295 (1) In any case in which a person has been convicted of or  
 296 has pled nolo contendere or guilty to, regardless of whether  
 297 adjudication is withheld, any of the following offenses, or the  
 298 attempt thereof, which offense or attempted offense involves the  
 299 transmission of body fluids from one person to another:

- 300 (a) Section 794.011, relating to sexual battery,
- 301 (b) Section 826.04, relating to incest,
- 302 (c) Section 800.04(1), (2), and (3), relating to lewd,  
 303 lascivious, or indecent assault or act upon any person less than  
 304 16 years of age,
- 305 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
 306 relating to assault,

307 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),  
 308 relating to aggravated assault,  
 309 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),  
 310 relating to battery,  
 311 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),  
 312 relating to aggravated battery,  
 313 (h) Section 827.03(1), relating to child abuse,  
 314 (i) Section 827.03(2), relating to aggravated child abuse,  
 315 (j) Section 825.102(1), relating to abuse of an elderly  
 316 person or disabled adult,  
 317 (k) Section 825.102(2), relating to aggravated abuse of an  
 318 elderly person or disabled adult,  
 319 (l) Section 827.071, relating to sexual performance by  
 320 person less than 18 years of age,  
 321 (m) Sections 796.03, 796.07, and 796.08, relating to  
 322 prostitution, or  
 323 (n) Section 381.0041(11)(b), relating to donation of  
 324 blood, plasma, organs, skin, or other human tissue,  
 325  
 326 the court shall order the offender to undergo HIV testing, to be  
 327 performed under the direction of the Department of Health in  
 328 accordance with s. 381.004, unless the offender has undergone  
 329 HIV testing voluntarily or pursuant to procedures established in  
 330 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or  
 331 rule providing for HIV testing of criminal offenders or inmates,  
 332 subsequent to her or his arrest for an offense enumerated in  
 333 paragraphs (a)-(n) for which she or he was convicted or to which  
 334 she or he pled nolo contendere or guilty. The results of an HIV

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335 test performed on an offender pursuant to this subsection are  
336 not admissible in any criminal proceeding arising out of the  
337 alleged offense.

338 (2) The results of the HIV test must be disclosed under  
339 the direction of the Department of Health, to the offender who  
340 has been convicted of or pled nolo contendere or guilty to an  
341 offense specified in subsection (1), the public health agency of  
342 the county in which the conviction occurred and, if different,  
343 the county of residence of the offender, and, upon request  
344 pursuant to s. 960.003, to the victim or the victim's legal  
345 guardian, or the parent or legal guardian of the victim if the  
346 victim is a minor.

347 (3) An offender who has undergone HIV testing pursuant to  
348 subsection (1), and to whom positive test results have been  
349 disclosed pursuant to subsection (2), who commits a second or  
350 subsequent offense enumerated in paragraphs (1)(a)-(n), commits  
351 criminal transmission of HIV, a felony of the third degree,  
352 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
353 ~~subsection (7)~~. A person may be convicted and sentenced  
354 separately for a violation of this subsection and for the  
355 underlying crime enumerated in paragraphs (1)(a)-(n).

356 (4) An offender may challenge the positive results of an  
357 HIV test performed pursuant to this section and may introduce  
358 results of a backup test performed at her or his own expense.

359 (5) Nothing in this section requires that an HIV infection  
360 have occurred in order for an offender to have committed  
361 criminal transmission of HIV.

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362 (6) For an alleged violation of any offense enumerated in  
363 paragraphs (1)(a)-(n) for which the consent of the victim may be  
364 raised as a defense in a criminal prosecution, it is an  
365 affirmative defense to a charge of violating this section that  
366 the person exposed knew that the offender was infected with HIV,  
367 knew that the action being taken could result in transmission of  
368 the HIV infection, and consented to the action voluntarily with  
369 that knowledge.

370 ~~(7) In addition to any other penalty provided by law for~~  
371 ~~an offense enumerated in paragraphs (1)(a)-(n), the court may~~  
372 ~~require an offender convicted of criminal transmission of HIV to~~  
373 ~~serve a term of criminal quarantine community control, as~~  
374 ~~described in s. 948.001.~~

375 Section 9. Subsection (5) of section 384.34, Florida  
376 Statutes, is amended to read:

377 384.34 Penalties.--

378 (5) Any person who violates the provisions of s. 384.24(2)  
379 commits a felony of the third degree, punishable as provided in  
380 s. 775.082, s. 775.083, or s. 775.084, ~~and 775.0877(7)~~. Any  
381 person who commits multiple violations of the provisions of s.  
382 384.24(2) commits a felony of the first degree, punishable as  
383 provided in s. 775.082, s. 775.083, or s. 775.084, ~~and~~  
384 ~~775.0877(7)~~.

385 Section 10. Subsection (5) of section 796.08, Florida  
386 Statutes, is amended to read:

387 796.08 Screening for HIV and sexually transmissible  
388 diseases; providing penalties.--

389 (5) A person who:

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390 (a) Commits or offers to commit prostitution; or  
 391 (b) Procures another for prostitution by engaging in  
 392 sexual activity in a manner likely to transmit the human  
 393 immunodeficiency virus,  
 394  
 395 and who, prior to the commission of such crime, had tested  
 396 positive for human immunodeficiency virus and knew or had been  
 397 informed that he or she had tested positive for human  
 398 immunodeficiency virus and could possibly communicate such  
 399 disease to another person through sexual activity commits  
 400 criminal transmission of HIV, a felony of the third degree,  
 401 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
 402 ~~or s. 775.0877(7)~~. A person may be convicted and sentenced  
 403 separately for a violation of this subsection and for the  
 404 underlying crime of prostitution or procurement of prostitution.  
 405 Section 11. Subsections (2) and (3) of section 921.187,  
 406 Florida Statutes, are amended to read:  
 407 921.187 Disposition and sentencing; alternatives;  
 408 restitution.--  
 409 ~~(2) In addition to any other penalty provided by law for~~  
 410 ~~an offense enumerated in s. 775.0877(1)(a)-(n), if the offender~~  
 411 ~~is convicted of criminal transmission of HIV pursuant to s.~~  
 412 ~~775.0877, the court may sentence the offender to criminal~~  
 413 ~~quarantine community control as described in s. 948.001.~~  
 414 (2)~~(3)~~ The court shall require an offender to make  
 415 restitution under s. 775.089, unless the court finds clear and  
 416 compelling reasons not to order such restitution. If the court  
 417 does not order restitution, or orders restitution of only a

418 | portion of the damages, as provided in s. 775.089, the court  
 419 | shall state the reasons on the record in detail. An order  
 420 | requiring an offender to make restitution to a victim under s.  
 421 | 775.089 does not remove or diminish the requirement that the  
 422 | court order payment to the Crimes Compensation Trust Fund under  
 423 | chapter 960.

424 |       Section 12. Subsection (1) of section 948.01, Florida  
 425 | Statutes, is amended to read:

426 |       948.01 When court may place defendant on probation or into  
 427 | community control.--

428 |       (1) (a) Any court of the state having original jurisdiction  
 429 | of criminal actions may at a time to be determined by the court,  
 430 | either with or without an adjudication of the guilt of the  
 431 | defendant, hear and determine the question of the probation of a  
 432 | defendant in a criminal case, except for an offense punishable  
 433 | by death, who has been found guilty by the verdict of a jury,  
 434 | has entered a plea of guilty or a plea of nolo contendere, or  
 435 | has been found guilty by the court trying the case without a  
 436 | jury. If the court places the defendant on probation or into  
 437 | community control for a felony, the department shall provide  
 438 | immediate supervision by an officer employed in compliance with  
 439 | the minimum qualifications for officers as provided in s.  
 440 | 943.13. In no circumstances shall a private entity provide  
 441 | probationary or supervision services to felony or misdemeanor  
 442 | offenders sentenced or placed on probation or other supervision  
 443 | by the circuit court.

444 |       (b) The department, in consultation with the Office of the  
 445 | State Courts Administrator, shall develop and disseminate to the



446 courts uniform order of supervision forms by July 1 of each  
 447 year, or as necessary. Courts shall use the uniform order of  
 448 supervision forms provided by the department for all persons  
 449 placed on community supervision.

450 Section 13. Subsection (1) of section 948.03, Florida  
 451 Statutes, is amended to read:

452 948.03 Terms and conditions of probation.--

453 (1) The court shall determine the terms and conditions of  
 454 probation. Conditions specified in this section do not require  
 455 oral pronouncement at the time of sentencing and may be  
 456 considered standard conditions of probation. These conditions  
 457 may include among them the following, that the probationer or  
 458 offender in community control shall:

459 (a) Report to the probation and parole supervisors as  
 460 directed.

461 (b) Permit such supervisors to visit him or her at his or  
 462 her home or elsewhere.

463 (c) Work faithfully at suitable employment insofar as may  
 464 be possible.

465 (d) Remain within a specified place.

466 (e) Live without violating any law. A conviction in a  
 467 court of law shall not be necessary for such a violation of law  
 468 to constitute a violation of probation, community control, or  
 469 any other form of court-ordered supervision.

470 (f) ~~(e)~~ Make reparation or restitution to the aggrieved  
 471 party for the damage or loss caused by his or her offense in an  
 472 amount to be determined by the court. The court shall make such  
 473 reparation or restitution a condition of probation, unless it

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474 determines that clear and compelling reasons exist to the  
475 contrary. If the court does not order restitution, or orders  
476 restitution of only a portion of the damages, as provided in s.  
477 775.089, it shall state on the record in detail the reasons  
478 therefor.

479 (g)~~(f)~~ Effective July 1, 1994, and applicable for offenses  
480 committed on or after that date, make payment of the debt due  
481 and owing to a county or municipal detention facility under s.  
482 951.032 for medical care, treatment, hospitalization, or  
483 transportation received by the felony probationer while in that  
484 detention facility. The court, in determining whether to order  
485 such repayment and the amount of such repayment, shall consider  
486 the amount of the debt, whether there was any fault of the  
487 institution for the medical expenses incurred, the financial  
488 resources of the felony probationer, the present and potential  
489 future financial needs and earning ability of the probationer,  
490 and dependents, and other appropriate factors.

491 (h)~~(g)~~ Support his or her legal dependents to the best of  
492 his or her ability.

493 (i)~~(h)~~ Make payment of the debt due and owing to the state  
494 under s. 960.17, subject to modification based on change of  
495 circumstances.

496 (j)~~(i)~~ Pay any application fee assessed under s.  
497 27.52(1)(b) and attorney's fees and costs assessed under s.  
498 938.29, subject to modification based on change of  
499 circumstances.

500 (k)~~(j)~~ Not associate with persons engaged in criminal  
501 activities.

502        (l)~~(k)~~1. Submit to random testing as directed by the  
 503        correctional probation officer or the professional staff of the  
 504        treatment center where he or she is receiving treatment to  
 505        determine the presence or use of alcohol or controlled  
 506        substances.

507        2. If the offense was a controlled substance violation and  
 508        the period of probation immediately follows a period of  
 509        incarceration in the state correction system, the conditions  
 510        shall include a requirement that the offender submit to random  
 511        substance abuse testing intermittently throughout the term of  
 512        supervision, upon the direction of the correctional probation  
 513        officer as defined in s. 943.10(3).

514        (m)~~(l)~~ Be prohibited from possessing, carrying, or owning  
 515        any firearm unless authorized by the court ~~and consented to by~~  
 516        ~~the probation officer.~~

517        (n)~~(m)~~ Be prohibited from using intoxicants to excess or  
 518        possessing any drugs or narcotics unless prescribed by a  
 519        physician. The probationer or community controllee shall not  
 520        knowingly visit places where intoxicants, drugs, or other  
 521        dangerous substances are unlawfully sold, dispensed, or used.

522        (o)~~(n)~~ Submit to the drawing of blood or other biological  
 523        specimens as prescribed in ss. 943.325 and 948.014, and  
 524        reimburse the appropriate agency for the costs of drawing and  
 525        transmitting the blood or other biological specimens to the  
 526        Department of Law Enforcement.

527        (p) Submit to the taking of a digitized photograph by the  
 528        department as a part of the offender's records. This photograph  
 529        may be displayed on the department's public website while the

530 offender is on a form of court-ordered supervision, with the  
 531 exception of offenders on pretrial intervention supervision, or  
 532 who would otherwise be exempt from public records due to  
 533 provisions in s. 119.07.

534 Section 14. Subsections (2) and (7) of section 948.09,  
 535 Florida Statutes, are amended to read:

536 948.09 Payment for cost of supervision and  
 537 rehabilitation.--

538 (2) Any person being electronically monitored by the  
 539 department as a result of placement on supervision ~~community~~  
 540 ~~control~~ shall be required to pay the department for electronic  
 541 monitoring services at a rate ~~as a surcharge an amount~~ that may  
 542 not exceed the full cost of the monitoring service in addition  
 543 to the cost of supervision fee as directed by the sentencing  
 544 court. Funds collected pursuant to this subsection ~~The surcharge~~  
 545 shall be deposited in the General Revenue Fund. The department  
 546 may exempt a person from the payment of all or any part of the  
 547 electronic monitoring service if it finds that factors exist as  
 548 provided in subsection (3).

549 (7) The department shall establish a payment plan for all  
 550 costs ordered by the courts for collection by the department and  
 551 a priority order for payments, except that victim restitution  
 552 payments authorized under s. 948.03(1) (f) ~~(e)~~ take precedence  
 553 over all other court-ordered payments. The department is not  
 554 required to disburse cumulative amounts of less than \$10 to  
 555 individual payees established on this payment plan.

556 Section 15. Section 948.101, Florida Statutes, is amended  
 557 to read:

558 948.101 Terms and conditions of community control ~~and~~  
 559 ~~criminal quarantine community control.~~--

560 (1) The court shall determine the terms and conditions of  
 561 community control. Conditions specified in this subsection do  
 562 not require oral pronouncement at the time of sentencing and may  
 563 be considered standard conditions of community control.

564 ~~(a)~~ The court shall require intensive supervision and  
 565 surveillance for an offender placed into community control,  
 566 which may include but is not limited to:

567 (a)1. Specified contact with the parole and probation  
 568 officer.

569 (b)2. Confinement to an agreed-upon residence during hours  
 570 away from employment and public service activities.

571 (c)3. Mandatory public service.

572 (d)4. Supervision by the Department of Corrections by  
 573 means of an electronic monitoring device or system.

574 (e)5. The standard conditions of probation set forth in s.  
 575 948.03 or s. 948.30.

576 ~~(b) For an offender placed on criminal quarantine~~  
 577 ~~community control, the court shall require:~~

578 ~~1. Electronic monitoring 24 hours per day.~~

579 ~~2. Confinement to a designated residence during designated~~  
 580 ~~hours.~~

581 (2) The enumeration of specific kinds of terms and  
 582 conditions does not prevent the court from adding thereto any  
 583 other terms or conditions that the court considers proper.  
 584 However, the sentencing court may only impose a condition of  
 585 supervision allowing an offender convicted of s. 794.011, s.

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586 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in  
 587 another state if the order stipulates that it is contingent upon  
 588 the approval of the receiving state interstate compact  
 589 authority. The court may rescind or modify at any time the terms  
 590 and conditions theretofore imposed by it upon the offender in  
 591 community control. However, if the court withholds adjudication  
 592 of guilt or imposes a period of incarceration as a condition of  
 593 community control, the period may not exceed 364 days, and  
 594 incarceration shall be restricted to a county facility, a  
 595 probation and restitution center under the jurisdiction of the  
 596 Department of Corrections, a probation program drug punishment  
 597 phase I secure residential treatment institution, or a community  
 598 residential facility owned or operated by any entity providing  
 599 such services.

600 ~~(3) The court may place a defendant who is being sentenced~~  
 601 ~~for criminal transmission of HIV in violation of s. 775.0877 on~~  
 602 ~~criminal quarantine community control. The Department of~~  
 603 ~~Corrections shall develop and administer a criminal quarantine~~  
 604 ~~community control program emphasizing intensive supervision with~~  
 605 ~~24-hour-per-day electronic monitoring. Criminal quarantine~~  
 606 ~~community control status must include surveillance and may~~  
 607 ~~include other measures normally associated with community~~  
 608 ~~control, except that specific conditions necessary to monitor~~  
 609 ~~this population may be ordered.~~

610 Section 16. Section 948.11, Florida Statutes, is amended  
 611 to read:

612 948.11 Electronic monitoring devices.--

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613 (1) ~~(a)~~ The Department of Corrections may, at its  
614 discretion, electronically monitor an offender sentenced to  
615 community control.

616 ~~(b) The Department of Corrections shall electronically~~  
617 ~~monitor an offender sentenced to criminal quarantine community~~  
618 ~~control 24 hours per day.~~

619 ~~(2) Any offender placed on community control who violates~~  
620 ~~the terms and conditions of community control and is restored to~~  
621 ~~community control may be supervised by means of an electronic~~  
622 ~~monitoring device or system.~~

623 ~~(3) For those offenders being electronically monitored,~~  
624 ~~the Department of Corrections shall develop procedures to~~  
625 ~~determine, investigate, and report the offender's noncompliance~~  
626 ~~with the terms and conditions of sentence 24 hours per day. All~~  
627 ~~reports of noncompliance shall be immediately investigated by a~~  
628 ~~community control officer.~~

629 ~~(4) The Department of Corrections may contract with local~~  
630 ~~law enforcement agencies to assist in the location and~~  
631 ~~apprehension of offenders who are in noncompliance as reported~~  
632 ~~by the electronic monitoring system. This contract is intended~~  
633 ~~to provide the department a means for providing immediate~~  
634 ~~investigation of noncompliance reports, especially after normal~~  
635 ~~office hours.~~

636 (2) (5) Any person being electronically monitored by the  
637 department as a result of placement on supervision ~~community~~  
638 ~~control~~ shall be required to pay the department for electronic  
639 monitoring services ~~a surcharge~~ as provided in s. 948.09(2).

640        (3)~~(6)~~ For probationers, community controllees, or  
641 conditional releasees who have current or prior convictions for  
642 violent or sexual offenses, the department, in carrying out a  
643 court or commission order to electronically monitor an offender,  
644 must use a system that actively monitors and identifies the  
645 offender's location and timely reports or records the offender's  
646 presence near or within a crime scene or in a prohibited area or  
647 the offender's departure from specified geographic limitations.  
648 Procurement of electronic monitoring services under this  
649 subsection shall be by competitive procurement in accordance  
650 with invitation to bid as defined in s. 287.057.

651        (4)~~(7)~~ A person who intentionally alters, tampers with,  
652 damages, or destroys any electronic monitoring equipment  
653 pursuant to court or commission order, unless such person is the  
654 owner of the equipment, or an agent of the owner, performing  
655 ordinary maintenance and repairs, commits a felony of the third  
656 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
657 775.084.

658        Section 17. Subsection (2) and paragraph (e) of subsection  
659 (9) of section 951.23, Florida Statutes, are amended to read:

660        951.23 County and municipal detention facilities;  
661 definitions; administration; standards and requirements.--

662        (2) COLLECTION OF INFORMATION.--In conjunction with the  
663 administrators of county detention facilities, the Department of  
664 Corrections shall develop an instrument for the collection of  
665 information from the administrator of each county detention  
666 facility. Whenever possible, the information shall be  
667 transmitted by the administrator to the Department of



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668 Corrections electronically or in a computer readable format. The  
 669 information shall be provided on a monthly basis and shall  
 670 include, but is not limited to, the following:

- 671 (a) The number of persons housed per day who are:
- 672 1. Felons sentenced to cumulative sentences of
  - 673 incarceration of 364 days or less.
  - 674 2. Felons sentenced to cumulative sentences of
  - 675 incarceration of 365 days or more.
  - 676 3. Sentenced misdemeanants.
  - 677 4. Awaiting trial on at least one felony charge.
  - 678 5. Awaiting trial on misdemeanor charges only.
  - 679 6. Convicted felons and misdemeanants who are awaiting
  - 680 sentencing.
  - 681 7. Juveniles.
  - 682 8. State parole violators.
  - 683 9. State inmates who were transferred from a state
  - 684 correctional facility, as defined in s. 944.02, to the county
  - 685 detention facility.

686 ~~(b) The number of persons housed per day, admitted per~~  
 687 ~~month, and housed on the last day of the month, by age, race,~~  
 688 ~~sex, country of citizenship, country of birth, and immigration~~  
 689 ~~status classified as one of the following:~~

- 690 ~~1. Permanent legal resident of the United States.~~
- 691 ~~2. Legal visitor.~~
- 692 ~~3. Undocumented or illegal alien.~~
- 693 ~~4. Unknown status.~~

694 (b)(c) The number of persons housed per day:

695 1. Pursuant to part I of chapter 394, "The Florida Mental  
696 Health Act."

697 2. Pursuant to chapter 397, "Substance Abuse Services."

698 ~~(d) The cost per day for housing a person in the county~~  
699 ~~detention facility.~~

700 ~~(e) The number of persons admitted per month, and the~~  
701 ~~number of persons housed on the last day of the month, by age,~~  
702 ~~race, and sex, who are:~~

703 1. ~~Felons sentenced to cumulative sentences of~~  
704 ~~incarceration of 364 days or less.~~

705 2. ~~Felons sentenced to cumulative sentences of~~  
706 ~~incarceration of 365 days or more.~~

707 3. ~~Sentenced misdemeanants.~~

708 4. ~~Awaiting trial on at least one felony charge.~~

709 5. ~~Awaiting trial on misdemeanor charges only.~~

710 6. ~~Convicted felons and misdemeanants who are awaiting~~  
711 ~~sentencing.~~

712 7. ~~Juveniles.~~

713 8. ~~State parole violators.~~

714 9. ~~State inmates who were transferred from a state~~  
715 ~~correctional facility, as defined in s. 944.02, to the county~~  
716 ~~detention facility.~~

717 ~~(f) The number of persons admitted per month, by age,~~  
718 ~~race, and sex:~~

719 1. ~~Pursuant to part I of chapter 394, "The Florida Mental~~  
720 ~~Health Act."~~

721 2. ~~Pursuant to chapter 397, "Substance Abuse Services."~~

722 (9) INMATE COMMISSARY AND WELFARE FUND.--

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723 (e) The officer in charge shall be responsible for an  
724 audit of the fiscal management of the commissary by a  
725 disinterested party on an annual basis, which shall include  
726 certification of compliance with the pricing requirements of  
727 paragraph ~~(1)(b)~~<sup>above</sup>. Appropriate transaction records and  
728 stock inventory shall be kept current.

729 Section 18. Paragraph (c) of subsection (5) of section  
730 958.045, Florida Statutes, is amended to read:

731 958.045 Youthful offender basic training program.--

732 (5)

733 (c) The portion of the sentence served prior to placement  
734 in the basic training program may not be counted toward program  
735 completion. Within 30 days prior to the scheduled completion of  
736 the basic training program, the department shall submit a report  
737 to the court that describes the offender's performance. If the  
738 offender's performance has been satisfactory, the court shall  
739 issue an order modifying the sentence imposed and placing the  
740 offender on probation effective upon the offender's successful  
741 completion of the remainder of the program ~~Upon the offender's~~  
742 ~~completion of the basic training program, the department shall~~  
743 ~~submit a report to the court that describes the offender's~~  
744 ~~performance. If the offender's performance has been~~  
745 ~~satisfactory, the court shall issue an order modifying the~~  
746 ~~sentence imposed and placing the offender on probation.~~ The term  
747 of probation may include placement in a community residential  
748 program. If the offender violates the conditions of probation,  
749 the court may revoke probation and impose any sentence that it  
750 might have originally imposed.

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751 Section 19. Subsection (2) of section 960.292, Florida  
752 Statutes, is amended to read:

753 960.292 Enforcement of the civil restitution lien through  
754 civil restitution lien order.--The civil restitution lien shall  
755 be made enforceable by means of a civil restitution lien order.

756 (2) Upon motion by the state, upon petition of the local  
757 subdivision, crime victim, or aggrieved party, or on its own  
758 motion, the court in which the convicted offender is convicted  
759 shall enter civil restitution lien orders in favor of crime  
760 victims, the state, its local subdivisions, and other aggrieved  
761 parties. The court shall retain continuing jurisdiction over the  
762 convicted offender for the sole purpose of entering civil  
763 restitution lien orders for the duration of the sentence and up  
764 to 5 years from release from incarceration or supervision,  
765 whichever occurs later.

766 Section 20. Paragraph (b) of subsection (2) of section  
767 960.293, Florida Statutes, is amended to read:

768 960.293 Determination of damages and losses.--

769 (2) Upon conviction, a convicted offender is liable to the  
770 state and its local subdivisions for damages and losses for  
771 incarceration costs and other correctional costs.

772 (b) If the conviction is for an offense other than a  
773 capital or life felony, a liquidated damage amount of \$50 per  
774 day of the convicted offender's sentence shall be assessed  
775 against the convicted offender and in favor of the state or its  
776 local subdivisions. Damages shall be based upon the length of  
777 the sentence imposed by the court at the time of sentencing.

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778 Section 21. Section 960.297, Florida Statutes, is amended  
779 to read:

780 960.297 Authorization for governmental right of  
781 restitution for costs of incarceration.--

782 (1) The state and its local subdivisions, in a separate  
783 civil action or as counterclaim in any civil action, may seek  
784 recovery of the damages and losses set forth in s. 960.293.

785 (2) For those convicted offenders convicted before July 1,  
786 1994, the state and its local subdivisions, in a separate civil  
787 action or as a counterclaim in any civil action, may seek  
788 recovery of the damages and losses set forth in s. 960.293, for  
789 the convicted offender's remaining sentence after July 1, 1994.

790 (3) Civil actions authorized by the section may be  
791 commenced anytime during the offender's incarceration and up to  
792 5 years after the date of the offender's release from  
793 incarceration or supervision, whichever occurs later.

794 Section 22. This act shall take effect July 1, 2009.