

**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 1160  
**INTRODUCER:** Senator Wilson  
**SUBJECT:** Female Inmates/Parents of Minor Children  
**DATE:** April 8, 2010                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	<b>Favorable</b>
2.	_____	_____	CF	_____
3.	_____	_____	JU	_____
4.	_____	_____	JA	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill expresses legislative findings that maintaining contact between a female inmate and her minor children contributes to family reunification after release and also helps combat crime and reduce recidivism. The bill requires the Department of Corrections (department) to house female inmates with minor children in close proximity to their children whenever possible.

This bill substantially amends sections 944.17, 944.24, and 944.8031 of the Florida Statutes.

**II. Present Situation:**

National studies show that maintaining contact between inmates and their families can help reduce recidivism. Maintaining family ties also is beneficial for families. While research shows that children with parents who are in prison are more likely than their peers to commit crimes and become incarcerated themselves, these odds are reduced when the incarcerated parent maintains a relationship with the child.<sup>1</sup>

Florida law requires the Department of Corrections to promote contact between inmates and their families. The department is authorized to offer collect phone call service between inmates and their families and is required to provide visitation areas at correctional institutions. The department indicates that it assigns female inmates to institutions based on classification procedures that are designed to stabilize the total inmate population. Facilitating the individual needs of inmates is accommodated to the extent possible after considering other factors including

<sup>1</sup> Report Number 07-16, "Some Inmate Family Visitation Practices Are Not Meeting the Legislature's Intent", p.1. February 2007. Office of Program Policy Analysis and Government Accountability.

security, medical and mental health needs, programmatic needs, geographic realities, and economic factors. Although it considers proximity to minor children both in initial placement and in transferring inmates from one facility to another, the department gives primary consideration to the other relevant issues.<sup>2</sup>

Visitation by children is allowed except that there are restrictions on minors visiting a sexual offender whose victim was 15 years old or younger or if the offense was committed in the presence of a child who was 15 years old or younger.<sup>3</sup>

The department's transfer policy is summarized in Rule 33-601.215 (Classification - Transfer of Inmates) of the Florida Administrative Code, which states:

“Upon completion of the reception process, each inmate shall be assigned and transferred to the institution approved by the State Classification Team that might best facilitate his [her] institutional progress. Inmates may subsequently be transferred from one institution to another; however, the goal of the classification system is to retain inmates at institutions for longer periods of time in order to reduce transfers and stabilize the inmate population. Inmates participating in academic, vocational, substance abuse or betterment programs will not be transferred to another institution prior to completion of the program unless the program is available at the receiving institution, or for purposes of population management or security and safety concerns specifically set forth in writing. Transfers are subject to review by the inmate grievance procedure. . . .”

The department collects demographic data and information regarding visitation with minor children and immediate family. Initial information collected from the inmate during the reception process that concerns the child includes the relation, age, name, address and telephone number, and quality of relationship, whether the child was a victim, criminal history, whether the child will reside with the inmate after release, the closest geographic relative, and parent/spouse background.<sup>4</sup>

According to the department, as of December 31, 2009, the department had custody of 3,931 female inmates with at least one minor child. Collectively, these female inmates had a total of 8,253 children.<sup>5</sup>

There are 6 major and minor female facilities and 3 female camps that are run by the department. The largest female facility is privately run Gadsden Correctional Facility. In addition, there are 8 female work release centers. The total capacity and female population of these facilities is shown in the chart below:<sup>6</sup>

---

<sup>2</sup> Department of Corrections' Analysis of Senate Bill 1160, p. 2.

<sup>3</sup> Rule 33-601.720, F.A.C. (Sex Offender Visiting Restrictions).

<sup>4</sup> Department of Corrections' Analysis, p. 2.

<sup>5</sup> Id., p. 2.

<sup>6</sup> Id., p. 4.

Location	Total Capacity	Female Population
<b>Major &amp; Minor Female Facilities</b>		
LOWELL C.I.	1440	1287
LOWELL ANNEX	1500	1124
HERNANDO C.I.	427	421
HOMESTEAD C.I.	553	668
BROWARD C.I.	611	738
HILLSBOROUGH C.I.	431	287
<b>Total</b>		4525
<b>Private Female Facilities</b>		
GADSDEN C.F.	1551	1527
Other Female Facilities		
LEVY FORESTRY CAMP	292	227
LOWELL WORK CAMP	388	211
LOWELL BOOT CAMP	28	3
<b>Total</b>		441
<b>Female Work Release Centers</b>		
PINELLAS W.R.C.	40	43
HOLLYWOOD W.R.C.	108	108
ATLANTIC W.R.C.	40	43
SUNCOAST W.R.C.	110	109
ORLANDO W.R.C.	75	81
SHISA HOUSE WEST	32	32
SHISA HOUSE EAST	15	15
BRADENTON TRANS CTR	120	106
<b>Total</b>		537

The major and minor female facilities do not all have the same mission or type of inmate population. For example, Hernando Correctional Institution and Broward Correctional Institution are youthful offender facilities. Thus, a facility that is near where an inmate’s children live may not be a suitable housing placement for the inmate.

**III. Effect of Proposed Changes:**

**Section 1** of the bill includes the following legislative findings:

- It is important that each female inmate maintain contact with her minor children in order to prepare for reuniting with her family upon release.
- An inmate can fulfill parental responsibilities through visits and communication by mail and telephone even though the inmate’s activities are limited by incarceration.

- The support provided by an inmate's family can be an important resource in combating crime and reducing recidivism.

The section also expresses legislative intent that a female inmate be assigned to a correctional facility located in close proximity to the residence of the inmate's child whenever possible.

The section requires the department to collect information about the minor children of female inmates, including the number of minor children each inmate has, and the children's birth dates and residential and custodial status.

The department is also required to analyze the institutional assignments of female inmates annually to determine whether each parent is housed in an institution that is in close proximity to her minor child. This analysis is required to include mapping and distance calculations, and the department indicates that it would have to obtain software for this purpose. However, the department does not need to reassign an inmate to an institute in close proximity to her children if the court has restricted contact between the mother and the child.

**Section 2** amends s. 944.17, F.S., which relates to the department's authority to transfer inmates between institutions. The amendment requires the department to consider whether a female inmate would benefit from being housed in close proximity to her minor child along with considering security and medical issues.

**Section 3** adds a new subsection to s. 944.24, F.S., requiring that, whenever possible, each female inmate of a minor child be assigned to a correctional facility that is in close proximity to the child. The requirement is not applicable when the court has restricted contact with the child.

**Section 4** adds a legislative finding in s. 944.8031, F.S., regarding the value of fostering the relationship between a female inmate and her minor child through enhancing visitor services and programs and increasing the frequency and quality of visits. The statute currently notes the value of maintaining the inmate's family and community relationships through such means.

#### **Other Potential Implications:**

The bill requires the department to house a female inmate who has a minor child or children at an institution in close proximity to the children whenever possible. The term "close proximity" is not defined in the bill, and there is no precise standard for determining whether or not the department has met the "whenever possible" standard.

Walton, Okaloosa, Santa Rosa, Escambia, Hamilton, Brevard, Indian River, and Lee counties are the only counties that do not have at least a portion of their territory within 75 miles of a major female correctional facility. Major cities outside of a 75-mile radius of a major female facility include Pensacola, Fort Walton Beach, Fort Myers, Naples, Titusville, Melbourne, Fort Pierce, Fort Myers, and Naples.

Extending the radius to 110 miles excludes only the western Panhandle (including the extreme western portion of Walton County and all of Okaloosa, Santa Rosa, and Escambia counties) and

a small triangle of land near Sebastian on the Atlantic coast. There are fewer than 400 children of female inmates in these areas. Thus, only about 6 percent of the children of female inmates who live in Florida are more than a 2 or 3-hour automobile drive from a major female institution.<sup>7</sup>

The department has determined that 330 children live in the same county as their mother, and another 801 live in an adjacent county. It notes that 38 counties would not be considered to be in “close proximity” if the term is construed to mean the county in which the female inmate is housed or an adjacent county.

The department interprets the term “whenever possible” to mandate that all inmates who are mothers of minor children must be housed within close proximity of their children. Based on this reading and the interpretation of “close proximity” to include only the county where a female inmate is located and the adjacent counties, the department indicates that the bill would require it to accommodate 2800 female inmates. The department notes that 38 counties are not adjacent to a female correctional facility and that building a new prison costs \$100 million dollars. It also notes that there would be transportation costs to move female inmates and that an employee would have to gather the information.

An alternative interpretation is that “whenever possible” means that the department must make every reasonable effort to house female inmates close to their minor children. If the bill was intended to leave no room for the department to consider other relevant factors, the term “whenever possible” would be unnecessary. An example of a situation where it is not possible for a female inmate to be housed in close proximity to her children is the case of an inmate whose children live in Pensacola. The nearest female institution to Pensacola is Gadsden Correctional Institution, approximately 175 miles away. No reasonable person would interpret the bill to require construction of a new female correctional institution closer to Pensacola. However, it is reasonable to interpret the Legislature’s intent to be that the inmate would not be housed 705 miles away at Homestead Correctional Institution unless there are compelling factors that require such placement.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

---

<sup>7</sup> The department’s analysis indicates that 1668 of the 8253 children live out of state.

**D. Other Constitutional Issues:**

It is possible that male inmates who do not benefit from the special consideration of proximity to their minor children would raise a claim that the bill's provisions violate the Equal Protection Clause. The outcome of such a claim would depend on whether or not the court finds that the legislation has a rational basis in its differentiation between male and female parents. There is a strong argument that such a rational basis exists because of the nature of the bond between a mother and child and the significant disparity in the size of the male and female inmate parent populations.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None, except for costs that would be saved by inmate families whose travel and expenses could be reduced. Also, reduction in crime and recidivism could have an unmeasurable positive impact.

**C. Government Sector Impact:**

The department estimates that it would incur \$250,000 in information technology costs to analyze the placement of female inmates in relation to their minor children. There would also be unspecified costs of transportation to move female inmates to an institution within close proximity of their minor children.

The department takes the position that the bill requires strict compliance and would require construction of an unspecified number of new prisons at a cost of \$100,000,000 per prison. As discussed in the analysis, there are alternative interpretations that would not require the building of new prisons.

**VI. Technical Deficiencies:**

The lack of a definition of "close proximity" leaves the meaning of the term unclear. It is recommended that the term be defined in terms of distance or location (such as the department's working interpretation that the term includes the county where an institution is located and adjacent counties).

Similarly, the meaning of the term "whenever possible" should be clarified to preclude extreme interpretations.

**VII. Related Issues:**

None.

**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.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---