



513124

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2010	.	
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The Committee on Criminal Justice (Dockery) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (5) of section 384.34, Florida  
Statutes, is amended to read:

384.34 Penalties.—

(5) Any person who violates the provisions of s. 384.24(2)  
commits a felony of the third degree, punishable as provided in  
s. 775.082, s. 775.083, or s.775.084 ~~ss. 775.082, 775.083,~~  
~~775.084, and 775.0877(7)~~. Any person who commits multiple  
violations of the provisions of s. 384.24(2) commits a felony of



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13 the first degree, punishable as provided in s. 775.082, s.  
14 775.083, or s. 775.084 ~~ss. 775.082, 775.083, 775.084, and~~  
15 ~~775.0877(7).~~

16 Section 2. Section 775.0877, Florida Statutes, is amended  
17 to read:

18 775.0877 Criminal transmission of HIV; procedures;  
19 penalties.-

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

25 (a) Section 794.011, relating to sexual battery,

26 (b) Section 826.04, relating to incest,

27 (c) Section 800.04(1), (2), and (3), relating to lewd,  
28 lascivious, or indecent assault or act upon any person less than  
29 16 years of age,

30 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
31 relating to assault,

32 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),  
33 relating to aggravated assault,

34 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),  
35 relating to battery,

36 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),  
37 relating to aggravated battery,

38 (h) Section 827.03(1), relating to child abuse,

39 (i) Section 827.03(2), relating to aggravated child abuse,

40 (j) Section 825.102(1), relating to abuse of an elderly  
41 person or disabled adult,



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42           (k) Section 825.102(2), relating to aggravated abuse of an  
43 elderly person or disabled adult,  
44           (l) Section 827.071, relating to sexual performance by  
45 person less than 18 years of age,  
46           (m) Sections 796.03, 796.07, and 796.08, relating to  
47 prostitution, or  
48           (n) Section 381.0041(11)(b), relating to donation of blood,  
49 plasma, organs, skin, or other human tissue,  
50  
51 the court shall order the offender to undergo HIV testing, to be  
52 performed under the direction of the Department of Health in  
53 accordance with s. 381.004, unless the offender has undergone  
54 HIV testing voluntarily or pursuant to procedures established in  
55 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or  
56 rule providing for HIV testing of criminal offenders or inmates,  
57 subsequent to her or his arrest for an offense enumerated in  
58 paragraphs (a)-(n) for which she or he was convicted or to which  
59 she or he pled nolo contendere or guilty. The results of an HIV  
60 test performed on an offender pursuant to this subsection are  
61 not admissible in any criminal proceeding arising out of the  
62 alleged offense.  
63           (2) The results of the HIV test must be disclosed under the  
64 direction of the Department of Health, to the offender who has  
65 been convicted of or pled nolo contendere or guilty to an  
66 offense specified in subsection (1), the public health agency of  
67 the county in which the conviction occurred and, if different,  
68 the county of residence of the offender, and, upon request  
69 pursuant to s. 960.003, to the victim or the victim's legal  
70 guardian, or the parent or legal guardian of the victim if the



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71 victim is a minor.

72 (3) An offender who has undergone HIV testing pursuant to  
73 subsection (1), and to whom positive test results have been  
74 disclosed pursuant to subsection (2), who commits a second or  
75 subsequent offense enumerated in paragraphs (1)(a)-(n), commits  
76 criminal transmission of HIV, a felony of the third degree,  
77 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
78 ~~subsection (7)~~. A person may be convicted and sentenced  
79 separately for a violation of this subsection and for the  
80 underlying crime enumerated in paragraphs (1)(a)-(n).

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

84 (5) Nothing in this section requires that an HIV infection  
85 have occurred in order for an offender to have committed  
86 criminal transmission of HIV.

87 (6) For an alleged violation of any offense enumerated in  
88 paragraphs (1)(a)-(n) for which the consent of the victim may be  
89 raised as a defense in a criminal prosecution, it is an  
90 affirmative defense to a charge of violating this section that  
91 the person exposed knew that the offender was infected with HIV,  
92 knew that the action being taken could result in transmission of  
93 the HIV infection, and consented to the action voluntarily with  
94 that knowledge.

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



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100 Section 3. Subsection (5) of section 796.08, Florida  
101 Statutes, is amended to read:

102 796.08 Screening for HIV and sexually transmissible  
103 diseases; providing penalties.—

104 (5) A person who:

105 (a) Commits or offers to commit prostitution; or

106 (b) Procures another for prostitution by engaging in sexual  
107 activity in a manner likely to transmit the human  
108 immunodeficiency virus,

109  
110 and who, prior to the commission of such crime, had tested  
111 positive for human immunodeficiency virus and knew or had been  
112 informed that he or she had tested positive for human  
113 immunodeficiency virus and could possibly communicate such  
114 disease to another person through sexual activity commits  
115 criminal transmission of HIV, a felony of the third degree,  
116 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
117 ~~or s. 775.0877(7)~~. A person may be convicted and sentenced  
118 separately for a violation of this subsection and for the  
119 underlying crime of prostitution or procurement of prostitution.

120 Section 4. Section 800.09, Florida Statutes, is created to  
121 read:

122 800.09 Lewd or lascivious exhibition in the presence of a  
123 facility employee.—

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

125 (a) "Facility" means a state correctional institution, as  
126 defined in s. 944.02, or a private correctional facility, as  
127 defined in s. 944.710.

128 (b) "Employee" means any person employed by or performing



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129 contractual services for a public or private entity operating a  
130 facility or any person employed by or performing contractual  
131 services for the corporation operating the prison industry  
132 enhancement programs or the correctional work programs under  
133 part II of chapter 946. The term also includes any person who is  
134 a parole examiner with the Parole Commission.

135 (2) (a) A person who is detained in a facility may not:

136 1. Intentionally masturbate;

137 2. Intentionally expose the genitals in a lewd or  
138 lascivious manner; or

139 3. Intentionally commit any other sexual act, including,  
140 but not limited to, sadomasochistic abuse, sexual bestiality, or  
141 the simulation of any act involving sexual activity

142  
143 in the presence of a person he or she knows or reasonably should  
144 know is an employee.

145 (b) A person who violates paragraph (a) commits lewd or  
146 lascivious exhibition in the presence of a facility employee, a  
147 felony of the third degree, punishable as provided in s.  
148 775.082, s. 775.083, or s. 775.084.

149 Section 5. Subsections (2) and (3) of section 921.187,  
150 Florida Statutes, are amended to read:

151 921.187 Disposition and sentencing; alternatives;  
152 restitution.-

153 ~~(2) In addition to any other penalty provided by law for an~~  
154 ~~offense enumerated in s. 775.0877(1) (a) - (n), if the offender is~~  
155 ~~convicted of criminal transmission of HIV pursuant to s.~~  
156 ~~775.0877, the court may sentence the offender to criminal~~  
157 ~~quarantine community control as described in s. 948.001.~~



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158        (2)~~(3)~~ The court shall require an offender to make  
159        restitution under s. 775.089, unless the court finds clear and  
160        compelling reasons not to order such restitution. If the court  
161        does not order restitution, or orders restitution of only a  
162        portion of the damages, as provided in s. 775.089, the court  
163        shall state the reasons on the record in detail. An order  
164        requiring an offender to make restitution to a victim under s.  
165        775.089 does not remove or diminish the requirement that the  
166        court order payment to the Crimes Compensation Trust Fund under  
167        chapter 960.

168        Section 6. Section 940.061, Florida Statutes, is amended to  
169        read:

170        940.061 Informing persons about executive clemency and  
171        restoration of civil rights.—The Department of Corrections shall  
172        inform and educate inmates and offenders on community  
173        supervision about the restoration of civil rights. Each month  
174        the Department of Corrections shall send to the Parole  
175        Commission an electronic list containing the names of inmates  
176        who have been released from incarceration, and offenders who  
177        have been terminated from supervision, and who may be eligible  
178        ~~and assist eligible inmates and offenders on community~~  
179        ~~supervision with the completion of the application for the~~  
180        restoration of civil rights.

181        Section 7. Section 944.293, Florida Statutes, is repealed.

182        Section 8. Paragraph (b) of subsection (3) of section  
183        944.35, Florida Statutes, is amended to read:

184        944.35 Authorized use of force; malicious battery and  
185        sexual misconduct prohibited; reporting required; penalties.—

186        (3)



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187 (b)1. As used in this paragraph, the term "sexual  
188 misconduct" means the oral, anal, or vaginal penetration by, or  
189 union with, the sexual organ of another or the anal or vaginal  
190 penetration of another by any other object, but does not include  
191 an act done for a bona fide medical purpose or an internal  
192 search conducted in the lawful performance of the employee's  
193 duty.

194 2. Any employee of the department or a private correctional  
195 facility, as defined in s. 944.710, who engages in sexual  
196 misconduct with an inmate or an offender supervised by the  
197 department in the community, without committing the crime of  
198 sexual battery, commits a felony of the third degree, punishable  
199 as provided in s. 775.082, s. 775.083, or s. 775.084.

200 3. The consent of the inmate or offender supervised by the  
201 department in the community to any act of sexual misconduct may  
202 not be raised as a defense to a prosecution under this  
203 paragraph.

204 4. This paragraph does not apply to any employee of the  
205 department or any employee of a private correctional facility  
206 who is legally married to an inmate or an offender supervised by  
207 the department in the community, nor does it apply to any  
208 employee who has no knowledge, and would have no reason to  
209 believe, that the person with whom the employee has engaged in  
210 sexual misconduct is an inmate or an offender under community  
211 supervision of the department.

212 Section 9. Subsection (3) of section 944.605, Florida  
213 Statutes, is amended to read:

214 944.605 Inmate release; notification.-

215 (3) (a) If an inmate is to be released after having served





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216 one or more sentences for a conviction of robbery, sexual  
217 battery, home-invasion robbery, or carjacking, or an inmate to  
218 be released has a prior conviction for robbery, sexual battery,  
219 home-invasion robbery, or carjacking or similar offense, in this  
220 state or in another jurisdiction, and if such prior conviction  
221 information is contained in department records, the department  
222 shall release to the sheriff of the county in which the inmate  
223 plans to reside, and, if the inmate plans to reside within a  
224 municipality, to the chief of police of that municipality, the  
225 following information, which must include, but need not be  
226 limited to:

- 227       1.~~(a)~~ Name;
- 228       2.~~(b)~~ Social security number;
- 229       3.~~(c)~~ Date of birth;
- 230       4.~~(d)~~ Race;
- 231       5.~~(e)~~ Sex;
- 232       6.~~(f)~~ Height;
- 233       7.~~(g)~~ Weight;
- 234       8.~~(h)~~ Hair and eye color;
- 235       9.~~(i)~~ Tattoos or other identifying marks;
- 236       10.~~(j)~~ Fingerprints; and
- 237       11.~~(k)~~ A digitized photograph as provided in subsection  
238 (2).

239

240 The department shall release the information specified in this  
241 paragraph ~~subsection~~ within 6 months prior to the discharge of  
242 the inmate from the custody of the department.

243       (b) The department may electronically submit the  
244 information listed in paragraph (a) to the sheriff of the county



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245 in which the inmate plans to reside, and, if the inmate plans to  
246 reside within a municipality, to the chief of police of that  
247 municipality.

248 Section 10. Section 944.804, Florida Statutes, is amended  
249 to read:

250 944.804 Elderly offenders correctional facilities program  
251 of 2000.-

252 (1) The Legislature finds that the number and percentage of  
253 elderly offenders in the Florida prison system is increasing and  
254 will continue to increase for the foreseeable future. The  
255 current cost to incarcerate elderly offenders is approximately  
256 three times the cost of incarceration of younger inmates.  
257 Alternatives to the current approaches to housing, programming,  
258 and treating the medical needs of elderly offenders, which may  
259 reduce the overall costs associated with this segment of the  
260 prison population, must be explored and implemented.

261 (2) The department shall establish and operate ~~a geriatric~~  
262 facilities or geriatric dorms within a facility ~~at the site~~  
263 ~~known as River Junction Correctional Institution, which shall be~~  
264 ~~an institution specifically~~ for generally healthy elderly  
265 offenders who can perform general work appropriate for their  
266 physical and mental condition. ~~Prior to reopening the facility,~~  
267 ~~the department shall make modifications to the facility which~~  
268 ~~will ensure its compliance with the Americans with Disabilities~~  
269 ~~Act and decrease the likelihood of falls, accidental injury, and~~  
270 ~~other conditions known to be particularly hazardous to the~~  
271 ~~elderly.~~

272 (a) In order to decrease long-term medical costs to the  
273 state, a preventive fitness/wellness program and diet



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274 specifically designed to maintain the mental and physical health  
275 of elderly offenders shall be developed and implemented. In  
276 developing the program, the department shall give consideration  
277 to preventive medical care for the elderly which shall include,  
278 but not be limited to, maintenance of bone density, all aspects  
279 of cardiovascular health, lung capacity, mental alertness, and  
280 orientation. Existing policies and procedures shall be  
281 reexamined and altered to encourage offenders to adopt a more  
282 healthy lifestyle and maximize their level of functioning. The  
283 program components shall be modified as data and experience are  
284 received which measure the relative success of the program  
285 components previously implemented.

286 (b) Consideration must be given to redirecting resources as  
287 a method of offsetting increased medical costs. Elderly  
288 offenders are not likely to reenter society as a part of the  
289 workforce, and programming resources would be better spent in  
290 activities to keep the elderly offenders healthy, alert, and  
291 oriented. Limited or restricted programming or activities for  
292 elderly offenders will increase the daily cost of institutional  
293 and health care, and programming opportunities adequate to  
294 reduce the cost of care will be provided. Programming shall  
295 include, but not be limited to, recreation, education, and  
296 counseling which is needs-specific to elderly offenders.  
297 Institutional staff shall be specifically trained to effectively  
298 supervise elderly offenders and to detect physical or mental  
299 changes which warrant medical attention before more serious  
300 problems develop.

301 (3) The department shall adopt rules that specify which  
302 elderly offenders shall be eligible to be housed at the



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303 geriatric correctional facilities or dorms River Junction  
304 Correctional Institution.

305 (4) While developing the criteria for eligibility, the  
306 department shall use the information in existing offender  
307 databases to determine the number of offenders who would be  
308 eligible. The Legislature directs the department to consider a  
309 broad range of elderly offenders for the department's geriatric  
310 facilities or dorms River Junction Correctional Institution who  
311 have good disciplinary records and a medical grade that will  
312 permit them to perform meaningful work activities, including  
313 participation in an appropriate correctional work program  
314 (PRIDE) facility, if available.

315 (5) The department shall also submit a study based on  
316 existing offenders which projects the number of existing  
317 offenders who will qualify under the rules. An appendix to the  
318 study shall identify the specific offenders who qualify.

319 Section 11. Section 944.8041, Florida Statutes, is amended  
320 to read:

321 944.8041 Elderly offenders; annual review.—For the purpose  
322 of providing information to the Legislature on elderly offenders  
323 within the correctional system, the department and the  
324 Correctional Medical Authority shall each submit annually a  
325 report on the status and treatment of elderly offenders in the  
326 state-administered and private state correctional systems and  
327 as well as such information on the department's geriatric  
328 facilities and dorms River Junction Correctional Institution. In  
329 order to adequately prepare the reports, the department and the  
330 Department of Management Services shall grant access to the  
331 Correctional Medical Authority which includes access to the



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332 facilities, offenders, and any information the agencies require  
333 to complete their reports. The review shall also include an  
334 examination of promising geriatric policies, practices, and  
335 programs currently implemented in other correctional systems  
336 within the United States. The reports, with specific findings  
337 and recommendations for implementation, shall be submitted to  
338 the President of the Senate and the Speaker of the House of  
339 Representatives on or before December 31 of each year.

340 Section 12. Subsections (4) and (5) of section 945.41,  
341 Florida Statutes, are amended to read:

342 945.41 Legislative intent of ss. 945.40-945.49.—It is the  
343 intent of the Legislature that mentally ill inmates in the  
344 custody of the Department of Corrections receive evaluation and  
345 appropriate treatment for their mental illness through a  
346 continuum of services. It is further the intent of the  
347 Legislature that:

348 (4) Any inmate sentenced as a youthful offender, or  
349 designated as a youthful offender by the department under  
350 ~~pursuant to~~ chapter 958, who is transferred pursuant to this act  
351 to a mental health treatment facility be separated from other  
352 inmates, if necessary, as determined by the warden of the  
353 treatment facility. ~~In no case shall any youthful offender be~~  
354 ~~placed at the Florida State Prison or the Union Correctional~~  
355 ~~Institution for mental health treatment.~~

356 (5) The department may designate a mental health treatment  
357 facilities ~~facility~~ for adult, youthful, and female offenders or  
358 may contract with other appropriate entities, persons, or  
359 agencies for such services.

360 Section 13. Subsections (5) and (6) of section 945.42,



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361 Florida Statutes, are amended to read:

362 945.42 Definitions; ss. 945.40-945.49.—As used in ss.  
363 945.40-945.49, the following terms shall have the meanings  
364 ascribed to them, unless the context shall clearly indicate  
365 otherwise:

366 (5) "In immediate need of care and treatment" means that an  
367 inmate is apparently mentally ill and is not able to be  
368 appropriately cared for in the institution where he or she is  
369 confined and that, but for being isolated in a more restrictive  
370 and secure housing environment, because of the apparent mental  
371 illness:

372 (a)1. The inmate is demonstrating a refusal to care for  
373 himself or herself and without immediate treatment intervention  
374 is likely to continue to refuse to care for himself or herself,  
375 and such refusal poses an immediate, real, and present threat of  
376 substantial harm to his or her well-being; or

377 2. There is an immediate, real, and present threat that the  
378 inmate will inflict serious bodily harm on himself or herself or  
379 another person, as evidenced by recent behavior involving  
380 causing, attempting, or threatening such harm;

381 ~~(b)1. The inmate has refused voluntary placement for~~  
382 ~~treatment at a mental health treatment facility after sufficient~~  
383 ~~and conscientious explanation and disclosure of the purpose of~~  
384 ~~placement; or~~

385 ~~2. The inmate is unable to determine for himself or herself~~  
386 ~~whether placement is necessary; and~~

387 (c) All available less restrictive treatment alternatives  
388 that would offer an opportunity for improvement of the inmate's  
389 condition have been clinically determined to be inappropriate.



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390 (6) "In need of care and treatment" means that an inmate  
391 has a mental illness for which inpatient services in a mental  
392 health treatment facility are necessary and that, but for being  
393 isolated in a more restrictive and secure housing environment,  
394 because of the mental illness:

395 (a)1. The inmate is demonstrating a refusal to care for  
396 himself or herself and without treatment is likely to continue  
397 to refuse to care for himself or herself, and such refusal poses  
398 a real and present threat of substantial harm to his or her  
399 well-being; or

400 2. There is a substantial likelihood that in the near  
401 future the inmate will inflict serious bodily harm on himself or  
402 herself or another person, as evidenced by recent behavior  
403 causing, attempting, or threatening such harm;

404 ~~(b)1. The inmate has refused voluntary placement for~~  
405 ~~treatment at a mental health treatment facility after sufficient~~  
406 ~~and conscientious explanation and disclosure of the purpose of~~  
407 ~~placement; or~~

408 ~~2.~~ The inmate is unable to determine for himself or herself  
409 whether placement is necessary; and

410 (c) All available less restrictive treatment alternatives  
411 that would offer an opportunity for improvement of the inmate's  
412 condition have been clinically determined to be inappropriate.

413 Section 14. Section 945.43, Florida Statutes, is amended to  
414 read:

415 945.43 Placement Admission of inmate in a ~~to~~ mental health  
416 treatment facility.—

417 (1) CRITERIA.—An inmate may be placed in ~~admitted to~~ a  
418 mental health treatment facility if he or she is mentally ill



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419 and is in need of care and treatment, as defined in s. 945.42.

420 (2) PROCEDURE FOR PLACEMENT IN A MENTAL HEALTH TREATMENT  
421 FACILITY.—

422 (a) An inmate may be placed in ~~admitted to~~ a mental health  
423 treatment facility after notice and hearing, upon the  
424 recommendation of the warden of the facility where the inmate is  
425 confined. The recommendation shall be entered on a petition and  
426 must be supported by the expert opinion of a psychiatrist and  
427 the second opinion of a psychiatrist or psychological  
428 professional. The petition shall be filed with the court in the  
429 county where the inmate is located.

430 (b) A copy of the petition shall be served on the inmate,  
431 accompanied by a written notice that the inmate may apply  
432 immediately to the court to have an attorney appointed if the  
433 inmate cannot afford one.

434 (c) The petition for placement shall ~~may~~ be filed in the  
435 county in which the inmate is located. The hearing shall be held  
436 in the same county, and one of the inmate's physicians at the  
437 facility where the inmate is located shall appear as a witness  
438 at the hearing.

439 (d) An attorney representing the inmate shall have access  
440 to the inmate and any records, including medical or mental  
441 health records, which are relevant to the representation of the  
442 inmate.

443 (e) If the court finds that the inmate is mentally ill and  
444 in need of care and treatment, as defined in s. 945.42, the  
445 court shall order that he or she be placed in a mental health  
446 treatment facility or, if the inmate is at a mental health  
447 treatment facility, that he or she be retained there. The court





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448 shall authorize the mental health treatment facility to retain  
449 the inmate for up to 6 months. If, at the end of that time,  
450 continued placement is necessary, the warden shall apply to the  
451 Division of Administrative Hearings in accordance with s. 945.45  
452 for an order authorizing continued placement.

453 (3) PROCEDURE FOR HEARING ON PLACEMENT OF AN INMATE IN A  
454 MENTAL HEALTH TREATMENT FACILITY.—

455 (a) The court shall serve notice on the warden of the  
456 facility where the inmate is confined and the allegedly mentally  
457 ill inmate. The notice must specify the date, time, and place of  
458 the hearing; the basis for the allegation of mental illness; and  
459 the names of the examining experts. The hearing shall be held  
460 within 5 days, and the court may appoint a general or special  
461 magistrate to preside. The court may waive the presence of the  
462 inmate at the hearing if the ~~such~~ waiver is consistent with the  
463 best interests of the inmate and the inmate's counsel does not  
464 object. The department may transport the inmate to the location  
465 of the hearing if the hearing is not conducted at the facility  
466 or by electronic means. The hearing may be as informal as is  
467 consistent with orderly procedure. One of the experts whose  
468 opinion supported the petition for placement shall be present at  
469 the hearing for information purposes.

470 (b) If, at the hearing, the court finds that the inmate is  
471 mentally ill and in need of care and treatment, as defined in s.  
472 945.42, the court shall order that he or she be placed in a  
473 mental health treatment facility. The court shall provide a copy  
474 of its order authorizing placement and all supporting  
475 documentation relating to the inmate's condition to the warden  
476 of the treatment facility. If the court finds that the inmate is



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477 not mentally ill, it shall dismiss the petition for placement.

478 (4) REFUSAL OF PLACEMENT.—The warden of an institution in  
479 which a mental health treatment facility is located may refuse  
480 to place any inmate in that treatment facility who is not  
481 accompanied by adequate court orders and documentation, as  
482 required in ss. 945.40-945.49.

483 Section 15. Section 945.46, Florida Statutes, is amended to  
484 read:

485 945.46 Initiation of involuntary placement proceedings with  
486 respect to a mentally ill inmate scheduled for release.—

487 (1) If an inmate who is receiving mental health treatment  
488 in the department is scheduled for release through expiration of  
489 sentence or any other means, but continues to be mentally ill  
490 and in need of care and treatment, as defined in s. 945.42, the  
491 warden is authorized to initiate procedures for involuntary  
492 placement pursuant to s. 394.467, 60 days prior to such release.

493 (2) In addition, the warden may initiate procedures for  
494 involuntary examination pursuant to s. 394.463 for any inmate  
495 who has a mental illness and meets the criteria of s.  
496 394.463(1).

497 (3) The department may transport an individual who is being  
498 released from its custody to a receiving or treatment facility  
499 for involuntary examination or placement. Such transport shall  
500 be made to a facility that is specified by the Department of  
501 Children and Family Services as able to meet the specific needs  
502 of the individual. If the Department of Children and Family  
503 Services does not specify a facility, transport may be made to  
504 the nearest receiving facility.

505 Section 16. Section 946.42, Florida Statutes, is created to



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506 read:

507 946.42 Use of inmates on private property.-

508 (1) The department may allow inmates who meet the criteria  
509 provided in s. 946.40 to enter onto private property to perform  
510 public works or for the following purposes:

511 (a) To accept and collect donations for the use and benefit  
512 of the department.

513 (b) To assist federal, state, local, and private agencies  
514 before, during, and after emergencies or disasters.

515 (2) As used in this section, the term:

516 (a) "Disaster" means any natural, technological, or civil  
517 emergency that causes damage of sufficient severity and  
518 magnitude to result in a declaration of a state of emergency by  
519 a county, the Governor, or the President of the United States.

520 (b) "Donations" means gifts of tangible personal property  
521 and includes equipment, fixtures, construction materials, food  
522 items, and other tangible personal property of a consumable and  
523 nonconsumable nature.

524 (c) "Emergency" means any occurrence or threat of an  
525 occurrence, whether natural, technological, or manmade, in war  
526 or in peace, which results or may result in substantial injury  
527 or harm to the population or substantial damage to or loss of  
528 property.

529 Section 17. Subsection (3) of section 948.001, Florida  
530 Statutes, is repealed.

531 Section 18. Subsection (1) of section 948.03, Florida  
532 Statutes, is amended to read:

533 948.03 Terms and conditions of probation.-

534 (1) The court shall determine the terms and conditions of



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535 probation. Conditions specified in this section do not require  
536 oral pronouncement at the time of sentencing and may be  
537 considered standard conditions of probation. These conditions  
538 may include among them the following, that the probationer or  
539 offender in community control shall:

540 (a) Report to the probation and parole supervisors as  
541 directed.

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

544 (c) Work faithfully at suitable employment insofar as may  
545 be possible.

546 (d) Remain within a specified place.

547 (e) Live without violating any law. A conviction in a court  
548 of law is not necessary for such a violation of law to  
549 constitute a violation of probation, community control, or any  
550 other form of court-ordered supervision.

551 (f)~~(e)~~ Make reparation or restitution to the aggrieved  
552 party for the damage or loss caused by his or her offense in an  
553 amount to be determined by the court. The court shall make such  
554 reparation or restitution a condition of probation, unless it  
555 determines that clear and compelling reasons exist to the  
556 contrary. If the court does not order restitution, or orders  
557 restitution of only a portion of the damages, as provided in s.  
558 775.089, it shall state on the record in detail the reasons  
559 therefor.

560 (g)~~(f)~~ Effective July 1, 1994, and applicable for offenses  
561 committed on or after that date, make payment of the debt due  
562 and owing to a county or municipal detention facility under s.  
563 951.032 for medical care, treatment, hospitalization, or



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564 transportation received by the felony probationer while in that  
565 detention facility. The court, in determining whether to order  
566 such repayment and the amount of the ~~such~~ repayment, shall  
567 consider the amount of the debt, whether there was any fault of  
568 the institution for the medical expenses incurred, the financial  
569 resources of the felony probationer, the present and potential  
570 future financial needs and earning ability of the probationer,  
571 and dependents, and other appropriate factors.

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

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

577 (j) ~~(i)~~ Pay any application fee assessed under s.  
578 27.52(1)(b) and attorney's fees and costs assessed under s.  
579 938.29, subject to modification based on change of  
580 circumstances.

581 (k) ~~(j)~~ Not associate with persons engaged in criminal  
582 activities.

583 (l) ~~(k)~~ 1. Submit to random testing as directed by the  
584 correctional probation officer or the professional staff of the  
585 treatment center where he or she is receiving treatment to  
586 determine the presence or use of alcohol or controlled  
587 substances.

588 2. If the offense was a controlled substance violation and  
589 the period of probation immediately follows a period of  
590 incarceration in the state correction system, the conditions  
591 shall include a requirement that the offender submit to random  
592 substance abuse testing intermittently throughout the term of



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593 supervision, upon the direction of the correctional probation  
594 officer as defined in s. 943.10(3).

595 (m)~~(l)~~ Be prohibited from possessing, carrying, or owning  
596 any weapon without first procuring the consent of the  
597 correctional firearm unless authorized by the court and  
598 consented to by the probation officer.

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

604 (o)~~(n)~~ Submit to the drawing of blood or other biological  
605 specimens as prescribed in ss. 943.325 and 948.014, and  
606 reimburse the appropriate agency for the costs of drawing and  
607 transmitting the blood or other biological specimens to the  
608 Department of Law Enforcement.

609 (p) Submit to the taking of a digitized photograph by the  
610 department as a part of the offender's records. This photograph  
611 may be displayed on the department's public website while the  
612 offender is under court-ordered supervision. However, this  
613 paragraph does not apply to an offender who is on pretrial  
614 intervention supervision or an offender whose identity is exempt  
615 from disclosure due to an exemption from the requirements of s.  
616 119.07.

617 Section 19. Subsection (7) of section 948.09, Florida  
618 Statutes, is amended to read:

619 948.09 Payment for cost of supervision and rehabilitation.—

620 (7) The department shall establish a payment plan for all  
621 costs ordered by the courts for collection by the department and



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622 a priority order for payments, except that victim restitution  
623 payments authorized under s. 948.03(1)(f) ~~s. 948.03(1)(e)~~ take  
624 precedence over all other court-ordered payments. The department  
625 is not required to disburse cumulative amounts of less than \$10  
626 to individual payees established on this payment plan.

627 Section 20. Section 948.101, Florida Statutes, is amended  
628 to read:

629 948.101 Terms and conditions of community control ~~and~~  
630 ~~criminal quarantine community control.~~

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

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

638 (a)1. Specified contact with the parole and probation  
639 officer.

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

642 (c)3. Mandatory public service.

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

645 (e)5. The standard conditions of probation set forth in s.  
646 948.03.

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

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

650 ~~2. Confinement to a designated residence during designated~~



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651 ~~hours.~~

652 (2) The enumeration of specific kinds of terms and  
653 conditions does not prevent the court from adding ~~thereto~~ any  
654 other terms or conditions that the court considers proper.  
655 However, the sentencing court may only impose a condition of  
656 supervision allowing an offender convicted of s. 794.011, s.  
657 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in  
658 another state if the order stipulates that it is contingent upon  
659 the approval of the receiving state interstate compact  
660 authority. The court may rescind or modify at any time the terms  
661 and conditions theretofore imposed by it upon the offender in  
662 community control. However, if the court withholds adjudication  
663 of guilt or imposes a period of incarceration as a condition of  
664 community control, the period may not exceed 364 days, and  
665 incarceration shall be restricted to a county facility, a  
666 probation and restitution center under the jurisdiction of the  
667 Department of Corrections, a probation program drug punishment  
668 phase I secure residential treatment institution, or a community  
669 residential facility owned or operated by any entity providing  
670 such services.

671 ~~(3) The court may place a defendant who is being sentenced~~  
672 ~~for criminal transmission of HIV in violation of s. 775.0877 on~~  
673 ~~criminal quarantine community control. The Department of~~  
674 ~~Corrections shall develop and administer a criminal quarantine~~  
675 ~~community control program emphasizing intensive supervision with~~  
676 ~~24-hour-per-day electronic monitoring. Criminal quarantine~~  
677 ~~community control status must include surveillance and may~~  
678 ~~include other measures normally associated with community~~  
679 ~~control, except that specific conditions necessary to monitor~~





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680 ~~this population may be ordered.~~

681 Section 21. Subsection (1) of section 948.11, Florida  
682 Statutes, is amended to read:

683 948.11 Electronic monitoring devices.-

684 (1) ~~(a)~~ The Department of Corrections may, at its  
685 discretion, electronically monitor an offender sentenced to  
686 community control.

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

690 Section 22. Present subsection (4) of section 951.26,  
691 Florida Statutes, is renumbered as subsection (5), and a new  
692 subsection (4) is added to that section, to read:

693 951.26 Public safety coordinating councils.-

694 (4) The council may also develop a comprehensive local  
695 reentry plan that is designed to assist offenders released from  
696 incarceration to successfully reenter the community. The plan  
697 should cover at least a 5-year period. In developing the plan,  
698 the council shall coordinate with public safety officials and  
699 local community organizations who can provide offenders with  
700 reentry services, such as assistance with housing, health care,  
701 education, substance abuse treatment, and employment.

702 Section 23. This act shall take effect July 1, 2010.

703

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

705 And the title is amended as follows:

706 Delete everything before the enacting clause  
707 and insert:

708 A bill to be entitled



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709 An act relating to corrections; amending s. 384.34,  
710 F.S.; revising criminal penalties pertaining to  
711 sexually transmissible diseases; amending s. 775.0877,  
712 F.S.; removing a provision authorizing a court to  
713 require an offender convicted of criminal transmission  
714 of HIV to serve a term of criminal quarantine  
715 community control; amending s. 796.08, F.S., relating  
716 to criminal transmission of HIV; conforming a cross-  
717 reference; creating s. 800.09, F.S.; defining terms;  
718 providing that a person who is detained in a state or  
719 private correctional facility may not commit any lewd  
720 or lascivious behavior or other sexual act in the  
721 presence of an employee whom the detainee knows or  
722 reasonably should know is an employee; providing that  
723 a violation is a felony of the third degree; providing  
724 criminal penalties; amending s. 921.187, F.S.;  
725 removing a reference to criminal quarantine community  
726 control to conform to changes made by the act;  
727 amending s. 940.061, F.S.; requiring that the  
728 Department of Corrections send to the Parole  
729 Commission a monthly electronic list containing the  
730 names of inmates released from incarceration and  
731 offenders terminated from supervision and who may be  
732 eligible for restoration of civil rights; repealing s.  
733 944.293, F.S., relating to the restoration of an  
734 inmate's civil rights; amending s. 944.35, F.S.;  
735 prohibiting an employee of a private correctional  
736 facility from committing certain specified criminal  
737 acts; amending s. 944.605, F.S.; authorizing the



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738 Department of Corrections to electronically submit  
739 certain information to the sheriff of the county in  
740 which the inmate plans to reside and to the chief of  
741 police of the municipality where the inmate plans to  
742 reside; amending ss. 944.804 and 944.8041, F.S.;  
743 authorizing the department to establish and operate  
744 certain geriatric facilities at prison institutions;  
745 removing provisions authorizing the operation of a  
746 specified facility; amending s. 945.41, F.S.; deleting  
747 a prohibition against the placement of youthful  
748 offenders at certain institutions for mental health  
749 treatment; amending s. 945.42, F.S.; deleting  
750 references to an inmate's refusal of voluntary  
751 placement for purposes of determining the inmate's  
752 need for care and treatment; amending s. 945.43, F.S.;  
753 clarifying that an inmate is placed in a mental health  
754 treatment facility rather than admitted to the  
755 facility; authorizing the department to transport the  
756 inmate to the location of the hearing on such a  
757 placement; amending s. 945.46, F.S.; providing  
758 procedures for the transport of inmates who are  
759 mentally ill and who are scheduled to be released from  
760 confinement; creating s. 946.42, F.S.; authorizing the  
761 department to use inmate labor on private property  
762 under certain specified circumstances; defining terms;  
763 repealing s. 948.001(3), F.S., relating to the  
764 definition of the term "criminal quarantine community  
765 control," to conform to changes made by the act;  
766 amending s. 948.03, F.S.; providing additional



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767 conditions of probation to be applied to a defendant;  
768 deleting a requirement that a probationer obtain court  
769 authorization in order to possess a weapon; requiring  
770 that a digitized photograph of an offender be part of  
771 the offender's record; authorizing the department to  
772 display such photographs on its website for a  
773 specified period; providing certain exceptions;  
774 amending s. 948.09, F.S.; conforming a cross-  
775 reference; amending ss. 948.101 and 948.11, F.S.;  
776 revising terms and conditions of community control and  
777 deleting provisions related to criminal quarantine  
778 community control; amending s. 951.26, F.S.;  
779 authorizing each local public safety coordinating  
780 council to develop a comprehensive local reentry plan  
781 for offenders reentering the community; providing an  
782 effective date.