

By Senator Dockery

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1 A bill to be entitled
2 An act relating to corrections; amending s. 384.34,
3 F.S.; revising criminal penalties pertaining to
4 sexually transmissible diseases; amending s. 775.0877,
5 F.S.; removing a provision authorizing a court to
6 require an offender convicted of criminal transmission
7 of HIV to serve a term of criminal quarantine
8 community control; amending s. 796.08, F.S., relating
9 to criminal transmission of HIV; conforming a cross-
10 reference; creating s. 800.09, F.S.; defining terms;
11 providing that a person may not, while detained in a
12 state or private correctional facility, harass, annoy,
13 threaten, or alarm a person whom the detainee knows or
14 reasonably should know is an employee of the facility
15 or commit any lewd or lascivious behavior or other
16 sexual act in the presence of an employee; providing
17 that a violation is a felony of the third degree;
18 providing criminal penalties; amending s. 916.107,
19 F.S.; permitting the Department of Corrections to
20 retain physical custody of a forensic client who is
21 serving a sentence in the custody of the Department of
22 Corrections and who has been adjudicated incompetent
23 to proceed or not guilty by reason of insanity;
24 requiring the Department of Children and Family
25 Services to be responsible for all of the client's
26 necessary and appropriate competency evaluation,
27 treatment, and training; providing that forensic
28 clients who are housed with the Department of
29 Corrections have the same duties, rights, and

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30 responsibilities as other inmates; providing
31 conditions by which an admitting physician may order a
32 continuation of psychotherapeutic medication; amending
33 s. 916.13, F.S.; providing procedures for the
34 involuntary commitment of a defendant who is
35 adjudicated incompetent to proceed and committed to
36 the Department of Corrections; amending s. 916.15,
37 F.S.; providing procedures for a defendant who is
38 adjudicated guilty by reason of insanity and no longer
39 meets the criteria for involuntary commitment;
40 amending s. 921.187, F.S.; removing a reference to
41 criminal quarantine community control to conform to
42 changes made by the act; amending s. 940.061, F.S.;
43 requiring that the Department of Corrections send to
44 the Parole Commission a monthly electronic list
45 containing the names of inmates released from
46 incarceration and offenders terminated from
47 supervision and who may be eligible for restoration of
48 civil rights; amending s. 944.1905, F.S.; deleting a
49 provision providing for the assignment of youthful
50 offenders to the general inmate population under
51 certain conditions; repealing s. 944.293, F.S.,
52 relating to the restoration of an inmate's civil
53 rights; amending s. 944.35, F.S.; prohibiting an
54 employee of a private correctional facility from
55 committing certain specified criminal acts; amending
56 s. 944.605, F.S.; authorizing the Department of
57 Corrections to electronically submit certain
58 information to the sheriff of the county in which the

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59 inmate plans to reside or to the chief of police of
60 the municipality where the inmate plans to reside;
61 amending ss. 944.804 and 944.8041, F.S.; authorizing
62 the department to establish and operate certain
63 geriatric facilities at prison institutions; removing
64 provisions authorizing the operation of a specified
65 facility; amending s. 945.41, F.S.; deleting a
66 prohibition against the placement of youthful
67 offenders at certain institutions for mental health
68 treatment; amending s. 945.42, F.S.; deleting
69 references to an inmate's refusal of voluntary
70 placement for purposes of determining the inmate's
71 need for care and treatment; amending s. 945.43, F.S.;
72 clarifying that an inmate is placed in a mental health
73 treatment facility rather than admitted to the
74 facility; authorizing the department to transport the
75 inmate to the location of the hearing on such a
76 placement; amending s. 945.46, F.S.; providing
77 procedures for the transport of inmates who are
78 mentally ill and who are scheduled to be released from
79 confinement; creating s. 946.42, F.S.; authorizing the
80 department to use inmate labor on private property
81 under certain specified circumstances; defining terms;
82 repealing s. 948.001(3), F.S., relating to the
83 definition of the term "criminal quarantine community
84 control," to conform to changes made by the act;
85 amending s. 948.03, F.S.; providing additional
86 conditions of probation to be applied to a defendant;
87 deleting a requirement that a probationer obtain court

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88 authorization in order to possess a weapon; requiring
89 that a digitized photograph of an offender be part of
90 the offender's record; authorizing the department to
91 display such photographs on its website for a
92 specified period; providing certain exceptions;
93 amending s. 948.09, F.S.; conforming a cross-
94 reference; amending ss. 948.101 and 948.11, F.S.;
95 revising terms and conditions of community control and
96 deleting provisions related to criminal quarantine
97 community control; amending s. 951.26, F.S.;
98 authorizing each local public safety coordinating
99 council to develop a comprehensive local reentry plan
100 for offenders reentering the community; amending s.
101 958.03, F.S.; clarifying the definition of "youthful
102 offender" and defining the term "youthful offender
103 facility"; repealing s. 958.04(4) and (5), F.S.,
104 relating to basic training programs for youthful
105 offenders; amending s. 958.045, F.S.; providing
106 conditions under which a youthful offender may be
107 suspended from a basic training program and placed in
108 disciplinary confinement; providing for reinstatement;
109 providing for exceptions; removing various procedures
110 relating to the basic training program; amending s.
111 958.09, F.S.; providing that certain adopted rules
112 relating to the extension of the limits of confinement
113 and restitution apply to youthful offenders; deleting
114 provisions authorizing the department to contract with
115 other agencies for the confinement, treatment, and
116 supervision of youthful offenders; deleting provisions

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117 authorizing certain fines; amending and reenacting s.
 118 958.11, F.S.; providing that the department may assign
 119 youthful offenders to nonyouthful offender facilities
 120 in certain specified circumstances; amending s.
 121 951.231, F.S.; deleting an cross-reference to conform
 122 to changes made by the act; providing an effective
 123 date.

124

125 Be It Enacted by the Legislature of the State of Florida:

126

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

129 384.34 Penalties.—

130 (5) Any person who violates the provisions of s. 384.24(2)
 131 commits a felony of the third degree, punishable as provided in
 132 s. 775.082, s. 775.083, or s.775.084 ~~ss. 775.082, 775.083,~~
 133 ~~775.084, and 775.0877(7)~~. Any person who commits multiple
 134 violations of the provisions of s. 384.24(2) commits a felony of
 135 the first degree, punishable as provided in s. 775.082, s.
 136 775.083, or s. 775.084 ~~ss. 775.082, 775.083, 775.084, and~~
 137 ~~775.0877(7)~~.

138 Section 2. Section 775.0877, Florida Statutes, is amended
 139 to read:

140 775.0877 Criminal transmission of HIV; procedures;
 141 penalties.—

142 (1) In any case in which a person has been convicted of or
 143 has pled nolo contendere or guilty to, regardless of whether
 144 adjudication is withheld, any of the following offenses, or the
 145 attempt thereof, which offense or attempted offense involves the

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146 transmission of body fluids from one person to another:
147 (a) Section 794.011, relating to sexual battery,
148 (b) Section 826.04, relating to incest,
149 (c) Section 800.04(1), (2), and (3), relating to lewd,
150 lascivious, or indecent assault or act upon any person less than
151 16 years of age,
152 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
153 relating to assault,
154 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),
155 relating to aggravated assault,
156 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
157 relating to battery,
158 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),
159 relating to aggravated battery,
160 (h) Section 827.03(1), relating to child abuse,
161 (i) Section 827.03(2), relating to aggravated child abuse,
162 (j) Section 825.102(1), relating to abuse of an elderly
163 person or disabled adult,
164 (k) Section 825.102(2), relating to aggravated abuse of an
165 elderly person or disabled adult,
166 (l) Section 827.071, relating to sexual performance by
167 person less than 18 years of age,
168 (m) Sections 796.03, 796.07, and 796.08, relating to
169 prostitution, or
170 (n) Section 381.0041(11)(b), relating to donation of blood,
171 plasma, organs, skin, or other human tissue,
172
173 the court shall order the offender to undergo HIV testing, to be
174 performed under the direction of the Department of Health in

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175 accordance with s. 381.004, unless the offender has undergone
176 HIV testing voluntarily or pursuant to procedures established in
177 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or
178 rule providing for HIV testing of criminal offenders or inmates,
179 subsequent to her or his arrest for an offense enumerated in
180 paragraphs (a)-(n) for which she or he was convicted or to which
181 she or he pled nolo contendere or guilty. The results of an HIV
182 test performed on an offender pursuant to this subsection are
183 not admissible in any criminal proceeding arising out of the
184 alleged offense.

185 (2) The results of the HIV test must be disclosed under the
186 direction of the Department of Health, to the offender who has
187 been convicted of or pled nolo contendere or guilty to an
188 offense specified in subsection (1), the public health agency of
189 the county in which the conviction occurred and, if different,
190 the county of residence of the offender, and, upon request
191 pursuant to s. 960.003, to the victim or the victim's legal
192 guardian, or the parent or legal guardian of the victim if the
193 victim is a minor.

194 (3) An offender who has undergone HIV testing pursuant to
195 subsection (1), and to whom positive test results have been
196 disclosed pursuant to subsection (2), who commits a second or
197 subsequent offense enumerated in paragraphs (1)(a)-(n), commits
198 criminal transmission of HIV, a felony of the third degree,
199 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
200 ~~subsection (7)~~. A person may be convicted and sentenced
201 separately for a violation of this subsection and for the
202 underlying crime enumerated in paragraphs (1)(a)-(n).

203 (4) An offender may challenge the positive results of an

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204 HIV test performed pursuant to this section and may introduce
205 results of a backup test performed at her or his own expense.

206 (5) Nothing in this section requires that an HIV infection
207 have occurred in order for an offender to have committed
208 criminal transmission of HIV.

209 (6) For an alleged violation of any offense enumerated in
210 paragraphs (1)(a)-(n) for which the consent of the victim may be
211 raised as a defense in a criminal prosecution, it is an
212 affirmative defense to a charge of violating this section that
213 the person exposed knew that the offender was infected with HIV,
214 knew that the action being taken could result in transmission of
215 the HIV infection, and consented to the action voluntarily with
216 that knowledge.

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

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

224 796.08 Screening for HIV and sexually transmissible
225 diseases; providing penalties.-

226 (5) A person who:

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

228 (b) Procures another for prostitution by engaging in sexual
229 activity in a manner likely to transmit the human
230 immunodeficiency virus,

231

232 and who, prior to the commission of such crime, had tested

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233 positive for human immunodeficiency virus and knew or had been
234 informed that he or she had tested positive for human
235 immunodeficiency virus and could possibly communicate such
236 disease to another person through sexual activity commits
237 criminal transmission of HIV, a felony of the third degree,
238 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
239 ~~or s. 775.0877(7)~~. A person may be convicted and sentenced
240 separately for a violation of this subsection and for the
241 underlying crime of prostitution or procurement of prostitution.

242 Section 4. Section 800.09, Florida Statutes, is created to
243 read:

244 800.09 Lewd or lascivious exhibition in the presence of a
245 facility employee.-

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

247 (a) "Facility" means a state correctional institution, as
248 defined in s. 944.02, or a private correctional facility, as
249 defined in s. 944.710.

250 (b) "Employee" means any person employed by or performing
251 contractual services for a public or private entity operating a
252 facility or any person employed by or performing contractual
253 services for the corporation operating the prison industry
254 enhancement programs or the correctional work programs under
255 part II of chapter 946. The term also includes any person who is
256 a parole examiner with the Parole Commission.

257 (2) (a) A person may not, while detained in a facility,
258 intentionally harass, annoy, threaten, or alarm a person whom he
259 or she knows or reasonably should know to be an employee of the
260 facility. A detainee may not intentionally masturbate,
261 intentionally expose the genitals in a lewd or lascivious

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262 manner, or intentionally commit any other sexual act, including,
263 but not limited to, sadomasochistic abuse, sexual bestiality, or
264 the simulation of any act involving sexual activity, in the
265 presence of the employee.

266 (b) A person who violates paragraph (a) commits lewd or
267 lascivious exhibition in the presence of a facility employee, a
268 felony of the third degree, punishable as provided in s.
269 775.082, s. 775.083, or s. 775.084.

270 Section 5. Section 916.107, Florida Statutes, is amended to
271 read:

272 916.107 Rights of forensic clients.—

273 (1) RIGHT TO INDIVIDUAL DIGNITY.—

274 (a) The policy of the state is that the individual dignity
275 of the client shall be respected at all times and upon all
276 occasions, including any occasion when the forensic client is
277 detained, transported, or treated. Clients with mental illness,
278 retardation, or autism and who are charged with committing
279 felonies shall receive appropriate treatment or training. In a
280 criminal case involving a client who has been adjudicated
281 incompetent to proceed or not guilty by reason of insanity, a
282 jail may be used as an emergency facility for up to 15 days
283 following the date the department or agency receives a completed
284 copy of the court commitment order containing all documentation
285 required by the applicable Florida Rules of Criminal Procedure.
286 For a forensic client who is held in a jail awaiting admission
287 to a facility of the department or agency, evaluation and
288 treatment or training may be provided in the jail by the local
289 community mental health provider for mental health services, by
290 the developmental disabilities program for persons with

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291 retardation or autism, the client's physician or psychologist,
292 or any other appropriate program until the client is transferred
293 to a civil or forensic facility. The Department of Corrections
294 may retain physical custody of a forensic client who is serving
295 a sentence in its custody after having been adjudicated
296 incompetent to proceed or not guilty by reason of insanity.
297 However, the Department of Children and Family Services is
298 responsible for all necessary and appropriate competency
299 evaluation, treatment, and training. If ordered by the
300 department's treating psychiatrist, the Department of
301 Corrections shall provide and administer any necessary
302 medications.

303 (b) Forensic clients who are initially placed in, or
304 subsequently transferred to, a civil facility as described in
305 part I of chapter 394 or to a residential facility as described
306 in chapter 393 shall have the same rights as other persons
307 committed to these facilities for as long as they remain there.
308 Notwithstanding the rights described in this section, forensic
309 clients who are housed with the Department of Corrections have
310 the same duties, rights, and responsibilities as other inmates
311 committed to the custody of the Department of Corrections and
312 are subject to the rules adopted by the Department of
313 Corrections to implement its statutory authority.

314 (2) RIGHT TO TREATMENT.—

315 (a) The policy of the state is that neither the department
316 nor the agency shall deny treatment or training to any client
317 and that no services shall be delayed because the forensic
318 client is indigent pursuant to s. 27.52 and presently unable to
319 pay. However, every reasonable effort to collect appropriate

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320 reimbursement for the cost of providing services to clients able
321 to pay for the services, including reimbursement from insurance
322 or other third-party payments, shall be made by facilities
323 providing services pursuant to this chapter and in accordance
324 with the provisions of s. 402.33.

325 (b) Each forensic client shall be given, at the time of
326 admission and at regular intervals thereafter, a physical
327 examination, which shall include screening for communicable
328 disease by a health practitioner authorized by law to give such
329 screenings and examinations.

330 (c) Every forensic client shall be afforded the opportunity
331 to participate in activities designed to enhance self-image and
332 the beneficial effects of other treatments or training, as
333 determined by the facility.

334 (d) Not more than 30 days after admission to a civil or
335 forensic facility, each client shall have and receive, in
336 writing, an individualized treatment or training plan which the
337 client has had an opportunity to assist in preparing.

338 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

339 (a) A forensic client shall be asked to give express and
340 informed written consent for treatment. If a client refuses such
341 treatment as is deemed necessary and essential by the client's
342 multidisciplinary treatment team for the appropriate care of the
343 client, such treatment may be provided under the following
344 circumstances:

345 1. In an emergency situation in which there is immediate
346 danger to the safety of the client or others, such treatment may
347 be provided upon the written order of a physician for a period
348 not to exceed 48 hours, excluding weekends and legal holidays.

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349 If, after the 48-hour period, the client has not given express
350 and informed consent to the treatment initially refused, the
351 administrator or designee of the civil or forensic facility
352 shall, within 48 hours, excluding weekends and legal holidays,
353 petition the committing court or the circuit court serving the
354 county in which the facility is located, or, if the client is in
355 the custody of the Department of Corrections, the circuit court
356 where the forensic client is located ~~at the option of the~~
357 ~~facility administrator or designee~~, for an order authorizing the
358 continued treatment of the client. In the interim, the need for
359 treatment shall be reviewed every 48 hours and may be continued
360 without the consent of the client upon the continued written
361 order of a physician who has determined that the emergency
362 situation continues to present a danger to the safety of the
363 client or others.

364 2. In a situation other than an emergency situation, the
365 administrator or designee of the facility shall petition the
366 court for an order authorizing necessary and essential treatment
367 for the client.

368 a. If a forensic client has been receiving
369 psychotherapeutic medication for a diagnosed mental disorder at
370 a county jail at the time of transfer to the state forensic
371 mental health treatment facility and lacks the capacity to make
372 an informed decision regarding mental health treatment at the
373 time of admission, the admitting physician may order a
374 continuation of the psychotherapeutic medication if, in the
375 clinical judgment of the physician, abrupt cessation of the
376 psychotherapeutic medication could cause a risk to the health
377 and safety of the client during the time required to pursue a

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378 court order to medicate the client. The jail physician shall
379 provide a current psychotherapeutic medication order at the time
380 of transfer to the admitting facility.

381 b. If a forensic client has been receiving
382 psychotherapeutic medication for a diagnosed mental disorder
383 while in the custody of the Department of Corrections and lacks
384 the capacity to make an informed decision regarding mental
385 health treatment, the client's treating physician shall
386 coordinate continuation of the psychotherapeutic medication if,
387 in the clinical judgment of the physician, the abrupt cessation
388 of the psychotherapeutic medication could cause a risk to the
389 health and safety of the forensic client during the time
390 required to pursue a court order to medicate the client. The
391 Department of Corrections physician shall provide a current
392 psychotherapeutic medication order to any department physician
393 providing treatment to such a forensic client.

394 c. The court order shall allow such treatment for a period
395 not to exceed 90 days following the date of the entry of the
396 order. Unless the court is notified in writing that the client
397 has provided express and informed consent in writing or that the
398 client has been discharged by the committing court, the
399 administrator or designee shall, prior to the expiration of the
400 initial 90-day order, petition the court for an order
401 authorizing the continuation of treatment for another 90-day
402 period. This procedure shall be repeated until the client
403 provides consent or is discharged by the committing court.

404 3. At the hearing on the issue of whether the court should
405 enter an order authorizing treatment for which a client was
406 unable to or refused to give express and informed consent, the

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407 court shall determine by clear and convincing evidence that the
408 client has mental illness, retardation, or autism, that the
409 treatment not consented to is essential to the care of the
410 client, and that the treatment not consented to is not
411 experimental and does not present an unreasonable risk of
412 serious, hazardous, or irreversible side effects. In arriving at
413 the substitute judgment decision, the court must consider at
414 least the following factors:

- 415 a. The client's expressed preference regarding treatment;
- 416 b. The probability of adverse side effects;
- 417 c. The prognosis without treatment; and
- 418 d. The prognosis with treatment.

419

420 The hearing shall be as convenient to the client as may be
421 consistent with orderly procedure and shall be conducted in
422 physical settings not likely to be injurious to the client's
423 condition. The court may appoint a general or special magistrate
424 to preside at the hearing. The client or the client's guardian,
425 and the representative, shall be provided with a copy of the
426 petition and the date, time, and location of the hearing. The
427 client has the right to have an attorney represent him or her at
428 the hearing, and, if the client is indigent, the court shall
429 appoint the office of the public defender to represent the
430 client at the hearing. The client may testify or not, as he or
431 she chooses, and has the right to cross-examine witnesses and
432 may present his or her own witnesses.

433 (b) Before performing ~~In addition to the provisions of~~
434 ~~paragraph (a), in the case of~~ surgical procedures requiring the
435 use of a general anesthetic or electroconvulsive treatment or

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436 nonpsychiatric medical procedures, ~~and prior to performing the~~
437 ~~procedure,~~ written permission shall be obtained from the client,
438 if the client is legally competent, from the parent or guardian
439 of a minor client, or from the guardian of an incompetent
440 client. The administrator or designee of the forensic facility
441 or a designated representative may, with the concurrence of the
442 client's attending physician, authorize emergency surgical or
443 nonpsychiatric medical treatment if such treatment is deemed
444 lifesaving or is for a condition ~~situation~~ threatening serious
445 bodily harm to the client and permission of the client or the
446 client's guardian could not be obtained before provision of the
447 needed treatment.

448 (4) QUALITY OF TREATMENT.—

449 (a) Each forensic client shall receive treatment or
450 training suited to the client's needs, which shall be
451 administered skillfully, safely, and humanely with full respect
452 for the client's dignity and personal integrity. Each client
453 shall receive such medical, vocational, social, educational, and
454 rehabilitative services as the client's condition requires to
455 bring about a return to court for disposition of charges or a
456 return to the community. In order to achieve this goal, the
457 department and the agency shall coordinate their services with
458 each other, the Department of Corrections, and other appropriate
459 state agencies.

460 (b) Forensic clients housed in a civil or forensic facility
461 shall be free from the unnecessary use of restraint or
462 seclusion. Restraints shall be employed only in emergencies or
463 to protect the client or others from imminent injury. Restraints
464 may not be employed as punishment or for the convenience of

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465 staff.

466 (5) COMMUNICATION, ABUSE REPORTING, AND VISITS.—Each
467 forensic client housed in a civil or forensic facility has the
468 right to communicate freely and privately with persons outside
469 the facility unless it is determined that such communication is
470 likely to be harmful to the client or others. Clients ~~shall~~ have
471 the right to contact and to receive communication from their
472 attorneys at any reasonable time.

473 (a) Each forensic client housed in a civil or forensic
474 facility shall be allowed to receive, send, and mail sealed,
475 unopened correspondence; and no client's incoming or outgoing
476 correspondence shall be opened, delayed, held, or censored by
477 the facility unless there is reason to believe that it contains
478 items or substances that may be harmful to the client or others,
479 in which case the administrator or designee may direct
480 reasonable examination of such mail and may regulate the
481 disposition of such items or substances. For purposes of this
482 paragraph, the term "correspondence" does not include parcels or
483 packages. Forensic facilities may promulgate reasonable
484 institutional policies to provide for the inspection of parcels
485 or packages and for the removal of contraband items for health
486 or security reasons before ~~prior to~~ the contents are ~~being~~ given
487 to a client.

488 (b) If a client's right to communicate is restricted by the
489 administrator, written notice of such restriction and the
490 duration of the restriction shall be served on the client or his
491 or her legal guardian or representatives, and such restriction
492 shall be recorded on the client's clinical record along with the
493 reasons for the restriction ~~therefor~~. The restriction of a

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494 client's right to communicate shall be reviewed at least every 7
495 days.

496 (c) Each forensic facility shall establish reasonable
497 institutional policies governing visitors, visiting hours, and
498 the use of telephones by clients in the least restrictive manner
499 possible.

500 (d) Each forensic client housed in a civil or forensic
501 facility shall have ready access to a telephone in order to
502 report an alleged abuse. The facility or program staff shall
503 orally and in writing inform each client of the procedure for
504 reporting abuse and shall present the information in a language
505 the client understands. A written copy of that procedure,
506 including the telephone number of the central abuse hotline and
507 reporting forms, shall be posted in plain view.

508 (e) The department's or agency's forensic facilities shall
509 develop policies providing a procedure for reporting abuse.
510 Facility staff shall be required, as a condition of employment,
511 to become familiar with the procedures for the reporting of
512 abuse.

513 (6) CARE AND CUSTODY OF PERSONAL EFFECTS OF CLIENTS.—A
514 forensic client's right to possession of clothing and personal
515 effects shall be respected. The department or agency by rule, or
516 the administrator of any forensic facility by written
517 institutional policy, may declare certain items to be hazardous
518 to the health or welfare of clients or others or to the
519 operation of the facility. Such items may be restricted from
520 introduction into the facility or may be restricted from being
521 in a client's possession. The administrator or designee may take
522 temporary custody of such effects when required for medical and

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523 safety reasons. Custody of such personal effects shall be
524 recorded in the client's clinical record. Forensic clients who
525 are housed with the Department of Corrections are subject to the
526 rules adopted by the Department of Corrections to implement its
527 statutory authority.

528 (7) VOTING IN PUBLIC ELECTIONS.—A forensic client who is
529 eligible to vote according to the laws of the state has the
530 right to vote in the primary and general elections. The
531 department and agency shall establish rules to enable clients to
532 obtain voter registration forms, applications for absentee
533 ballots, and absentee ballots.

534 (8) CLINICAL RECORD; CONFIDENTIALITY.—A clinical record for
535 each forensic client, including forensic clients housed with the
536 Department of Corrections, shall be maintained. The record must
537 ~~shall~~ include data pertaining to admission and such other
538 information as may be required under rules of the department or
539 the agency. Unless waived by express and informed consent of the
540 client or the client's legal guardian or, if the client is
541 deceased, by the client's personal representative or by that
542 family member who stands next in line of intestate succession or
543 except as otherwise provided in this subsection, the clinical
544 record is confidential and exempt from the provisions of s.
545 119.07(1) and s. 24(a), Art. I of the State Constitution.

546 (a) The ~~Such~~ clinical record may be released:

547 1. To such persons and agencies as are designated by the
548 client or the client's legal guardian.

549 2. To persons authorized by order of the court and to the
550 client's counsel when the records are needed by the counsel for
551 adequate representation.

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552 3. To a qualified researcher, as defined by rule; a staff
553 member of the facility; or an employee of the department or
554 agency when the administrator of the facility, or secretary or
555 director of the department or agency, deems it necessary for
556 treatment of the client, maintenance of adequate records,
557 compilation of treatment data, or evaluation of programs.

558 4. For statistical and research purposes if the information
559 is abstracted in such a way as to protect the identity of
560 individuals.

561 5. If a client receiving services has declared an intention
562 to harm other persons, the administrator shall authorize the
563 release of sufficient information to provide adequate warning to
564 the person threatened with harm by the client, and to the
565 committing court, the state attorney, and the attorney
566 representing the client.

567 6. To the parent or next of kin of a client who is
568 committed to, or is being served by, a facility or program when
569 such information is limited to that person's service plan and
570 current physical and mental condition. Release of the ~~such~~
571 information must ~~shall~~ be in accordance with the code of ethics
572 of the profession involved and must comply with all state and
573 federal laws and regulations pertaining to the release of
574 personal health information.

575 7. To the Department of Corrections for forensic clients
576 who are housed with the Department of Corrections.

577 (b) Notwithstanding other provisions of this subsection,
578 the department or agency may request or receive from or provide
579 to any of the following entities client information, including
580 medical, mental health, and substance abuse treatment

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581 information concerning the client, to facilitate treatment,
582 habilitation, rehabilitation, and continuity of care of any
583 forensic client:

584 1. The Social Security Administration and the United States
585 Department of Veterans Affairs;

586 2. Law enforcement agencies, state attorneys, defense
587 attorneys, and judges in regard to the client's status;

588 3. Jail personnel in the jail in which a client may be
589 housed; ~~and~~

590 4. Community agencies and others expected to provide
591 followup care to the client upon the client's return to the
592 community; ~~and-~~

593 5. For forensic clients who are housed with the Department
594 of Corrections, the Department of Corrections.

595 (c) For forensic clients housed in a civil or forensic
596 facility, the department or agency may provide notice to any
597 client's next of kin or first representative regarding any
598 serious medical illness or the death of the client.

599 (d)1. Any law enforcement agency, facility, or other
600 governmental agency that receives information pursuant to this
601 subsection shall maintain the confidentiality of such
602 information except as otherwise provided herein.

603 2. Any agency or private practitioner who acts in good
604 faith in releasing information pursuant to this subsection is
605 not subject to civil or criminal liability for such release.

606 (9) HABEAS CORPUS.—

607 (a) At any time, and without notice, a forensic client
608 detained by a civil or forensic facility, or a relative, friend,
609 guardian, representative, or attorney on behalf of such client,

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610 may petition for a writ of habeas corpus to question the cause
611 and legality of such detention and request that the committing
612 court issue a writ for release. Each client shall receive a
613 written notice of the right to petition for a writ of habeas
614 corpus.

615 (b) A client or his or her legal guardian or
616 representatives or attorney may file a petition in the circuit
617 court in the county where the client is committed alleging that
618 the client is being unjustly denied a right or privilege granted
619 herein or that a procedure authorized herein is being abused.
620 Upon the filing of such a petition, the circuit court may ~~shall~~
621 ~~have the authority to~~ conduct a judicial inquiry and ~~to~~ issue
622 any appropriate order to correct an abuse of the provisions of
623 this chapter.

624 (10) TRANSPORTATION.—

625 (a) The sheriff shall consult with the governing board of
626 the county as to the most appropriate and cost-effective means
627 of transportation for forensic clients who have been committed
628 for treatment or training. Such consultation shall include, but
629 is not limited to, consideration of the cost to the county of
630 transportation performed by sheriff's personnel as opposed to
631 transportation performed by other means and, if sheriff's
632 personnel are to be used for transportation, the effect such use
633 will have, if any, on service delivery levels of the sheriff's
634 road patrol. After ~~such~~ consultation with the governing board of
635 the county, the sheriff shall determine the most appropriate and
636 cost-effective means of transportation for forensic clients
637 committed for treatment or training.

638 (b) The governing board of each county may ~~is authorized to~~

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639 contract with private transport companies for the transportation
640 of such clients to and from a facility.

641 (c) Any company that transports a client pursuant to this
642 section is considered an independent contractor and is solely
643 liable for the safe and dignified transportation of the client.
644 Any transport company that contracts with the governing board of
645 a county for the transport of clients as provided for in this
646 section shall be insured and provide no less than \$100,000 in
647 liability insurance with respect to the transportation of the
648 clients.

649 (d) Any company that contracts with a governing board of a
650 county to transport clients shall comply with the applicable
651 rules of the department or agency to ensure the safety and
652 dignity of the clients.

653 (11) LIABILITY FOR VIOLATIONS.—Any person who violates or
654 abuses any rights or privileges provided under this chapter to
655 ~~of~~ a forensic client in the custody of the department or agency
656 is that are provided under this chapter shall be liable for
657 damages as determined by law. Any person who acts in good faith
658 in complying with ~~the provisions of~~ this chapter is immune from
659 civil or criminal liability for his or her actions in connection
660 with the admission, diagnosis, treatment, training, or discharge
661 of a client to or from a facility. However, this subsection does
662 not relieve any person from liability if he or she is negligent.

663 Section 6. Section 916.13, Florida Statutes, is amended to
664 read:

665 916.13 Involuntary commitment of defendant adjudicated
666 incompetent.—

667 (1) Every defendant who is charged with a felony and who is

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668 adjudicated incompetent to proceed may be involuntarily
669 committed or ordered to receive ~~for~~ treatment upon a finding by
670 the court of clear and convincing evidence that:

671 (a) The defendant has a mental illness and because of the
672 mental illness:

673 1. The defendant is manifestly incapable of surviving alone
674 or with the help of willing and responsible family or friends,
675 including available alternative services, and, without
676 treatment, the defendant is likely to suffer from neglect or
677 refuse to care for herself or himself and such neglect or
678 refusal poses a real and present threat of substantial harm to
679 the defendant's well-being; or

680 2. There is a substantial likelihood that in the near
681 future the defendant will inflict serious bodily harm on herself
682 or himself or another person, as evidenced by recent behavior
683 causing, attempting, or threatening such harm;

684 (b) All available, less restrictive treatment alternatives,
685 including treatment in community residential facilities or
686 community inpatient or outpatient settings, which would offer an
687 opportunity for improvement of the defendant's condition have
688 been judged to be inappropriate; and

689 (c) There is a substantial probability that the mental
690 illness causing the defendant's incompetence will respond to
691 treatment and the defendant will regain competency to proceed in
692 the reasonably foreseeable future.

693 (2) (a) A defendant who has been charged with a felony and
694 who has been adjudicated incompetent to proceed due to mental
695 illness, and who meets the criteria for involuntary commitment
696 for treatment ~~to the department under the provisions of this~~

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697 chapter, may be committed to the department, and the department
698 shall retain and treat the defendant. No later than 6 months
699 after the date of admission and at the end of any period of
700 extended commitment, or at any time the administrator or
701 designee has ~~shall have~~ determined that the defendant has
702 regained competency to proceed or no longer meets the criteria
703 for continued commitment, the administrator or designee shall
704 file a report with the court pursuant to the applicable Florida
705 Rules of Criminal Procedure.

706 (b) In cases involving a defendant who is serving a
707 sentence in the custody of the Department of Corrections after
708 having been adjudicated incompetent to proceed due to mental
709 illness and if the defendant is charged with a new felony, is
710 entitled to proceed with a direct appeal from his or her
711 conviction, or is entitled to proceed under Rule 3.850 or Rule
712 3.851, Florida Rules of Criminal Procedure, the court, based on
713 input from the Department of Corrections and the Department of
714 Children and Family Services, may order that the defendant be
715 retained in the physical custody of the Department of
716 Corrections. If the court orders that a defendant who has been
717 adjudicated incompetent to proceed due to mental illness be
718 retained in the physical custody of the Department of
719 Corrections, the Department of Children and Family Services
720 shall provide appropriate training, treatment, and evaluation
721 for competency restoration in accordance with the relevant
722 sections of this chapter. If the inmate is in the physical
723 custody of the Department of Corrections and the department's
724 treating psychiatrist orders medications, the Department of
725 Corrections shall provide and administer any necessary

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726 medications. The Department of Children and Family Services
727 shall file a report with the court pursuant to the applicable
728 Florida Rules of Criminal Procedure within 6 months after the
729 administration of any competency training or treatment and every
730 12 months thereafter, or at any time the department determines
731 that the defendant has regained competency to proceed.

732 (c) Within 20 days after the court receives notification
733 that a defendant is competent to proceed or no longer meets the
734 criteria for continued commitment, the defendant shall be
735 transported back to jail pursuant to s. 916.107(10) for the
736 purpose of holding a competency hearing.

737 (d) A competency hearing must be held within 30 days after
738 a court receives notification that the defendant is competent to
739 proceed or no longer meets criteria for continued commitment.

740 Section 7. Section 916.15, Florida Statutes, is amended to
741 read:

742 916.15 Involuntary commitment of defendant adjudicated not
743 guilty by reason of insanity.—

744 (1) The determination of whether a defendant is not guilty
745 by reason of insanity shall be determined in accordance with
746 Rule 3.217, Florida Rules of Criminal Procedure.

747 (2) A defendant who is acquitted of criminal charges
748 because of a finding of not guilty by reason of insanity may be
749 involuntarily committed pursuant to such finding if the
750 defendant has a mental illness and, because of the illness, is
751 manifestly dangerous to himself or herself or others.

752 (3) Every defendant acquitted of criminal charges by reason
753 of insanity and found to meet the criteria for involuntary
754 commitment may be committed and treated in accordance with the

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755 provisions of this section and the applicable Florida Rules of
756 Criminal Procedure. The department shall admit a defendant so
757 adjudicated to an appropriate facility or program for treatment
758 and shall retain and treat such defendant. No later than 6
759 months after the date of admission, prior to the end of any
760 period of extended commitment, or at any time the administrator
761 or designee shall have determined that the defendant no longer
762 meets the criteria for continued commitment placement, the
763 administrator or designee shall file a report with the court
764 pursuant to the applicable Florida Rules of Criminal Procedure.

765 (4) (a) Within 20 days after the court is notified that a
766 defendant no longer meets the criteria for involuntary
767 commitment, the defendant must be transported back to jail for
768 the purpose of holding a commitment hearing.

769 (b) The commitment hearing must be held within 30 days
770 after the court receives notification that the defendant no
771 longer meets the criteria for continued commitment.

772 (5) A defendant who has been adjudicated not guilty by
773 reason of insanity, who is serving a sentence in the custody of
774 the Department of Corrections, and who is charged with a new
775 felony shall be retained in the physical custody of the
776 Department of Corrections for the remainder of his or her
777 sentence. Within 30 days before the defendant's release date,
778 the department shall evaluate the defendant and file a report
779 with the court requesting that the defendant be returned to the
780 court's jurisdiction to determine if the defendant continues to
781 meet the criteria for involuntary commitment placement.

782 (6) ~~(4)~~ In all proceedings under this section, both the
783 defendant and the state shall have the right to a hearing before

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784 the committing court. Evidence at the ~~such~~ hearing may be
785 presented by the hospital administrator or the administrator's
786 designee as well as by the state and the defendant. The
787 defendant has ~~shall have~~ the right to counsel at any such
788 hearing. If ~~In the event that~~ a defendant is determined to be
789 indigent pursuant to s. 27.52, the public defender shall
790 represent the defendant. The parties shall have access to the
791 defendant's records at the treating facilities and may interview
792 or depose personnel who have had contact with the defendant at
793 the treating facilities.

794 Section 8. Subsections (2) and (3) of section 921.187,
795 Florida Statutes, are amended to read:

796 921.187 Disposition and sentencing; alternatives;
797 restitution.-

798 ~~(2) In addition to any other penalty provided by law for an~~
799 ~~offense enumerated in s. 775.0877(1)(a)-(n), if the offender is~~
800 ~~convicted of criminal transmission of HIV pursuant to s.~~
801 ~~775.0877, the court may sentence the offender to criminal~~
802 ~~quarantine community control as described in s. 948.001.~~

803 (2)(3) The court shall require an offender to make
804 restitution under s. 775.089, unless the court finds clear and
805 compelling reasons not to order such restitution. If the court
806 does not order restitution, or orders restitution of only a
807 portion of the damages, as provided in s. 775.089, the court
808 shall state the reasons on the record in detail. An order
809 requiring an offender to make restitution to a victim under s.
810 775.089 does not remove or diminish the requirement that the
811 court order payment to the Crimes Compensation Trust Fund under
812 chapter 960.

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813 Section 9. Section 940.061, Florida Statutes, is amended to
814 read:

815 940.061 Informing persons about executive clemency and
816 restoration of civil rights.—The Department of Corrections shall
817 inform and educate inmates and offenders on community
818 supervision about the restoration of civil rights. Each month
819 the Department of Corrections shall send to the Parole
820 Commission an electronic list containing the names of inmates
821 who have been released from incarceration, and offenders who
822 have been terminated from supervision, and who may be eligible
823 ~~and assist eligible inmates and offenders on community~~
824 ~~supervision with the completion of the application for the~~
825 restoration of civil rights.

826 Section 10. Subsection (5) of section 944.1905, Florida
827 Statutes, is amended to read:

828 944.1905 Initial inmate classification; inmate
829 reclassification.—The Department of Corrections shall classify
830 inmates pursuant to an objective classification scheme. The
831 initial inmate classification questionnaire and the inmate
832 reclassification questionnaire must cover both aggravating and
833 mitigating factors.

834 (5) (a) Notwithstanding any other provision of this section
835 or chapter 958, the department shall assign to facilities
836 housing youthful offenders all inmates who are less than 18
837 years of age and who have not been assigned to a facility for
838 youthful offenders under ~~the provisions of~~ chapter 958. Such an
839 inmate shall be assigned to a facility for youthful offenders
840 until the inmate is 18 years of age; however, the department may
841 assign the inmate to a facility for youthful offenders until the

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842 inmate reaches an age not to exceed 21 years if the department
843 determines that the continued assignment is in the best
844 interests of the inmate and the assignment does not pose an
845 unreasonable risk to other inmates in the facility.

846 (b) Any inmate who is assigned to a facility under
847 paragraph (a) is subject to ~~the provisions of s. 958.11~~
848 ~~regarding facility assignments, and shall be removed and~~
849 ~~reassigned to the general inmate population if his or her~~
850 ~~behavior threatens the safety of other inmates or correctional~~
851 ~~staff.~~

852 Section 11. Section 944.293, Florida Statutes, is repealed.

853 Section 12. Paragraph (b) of subsection (3) of section
854 944.35, Florida Statutes, is amended to read:

855 944.35 Authorized use of force; malicious battery and
856 sexual misconduct prohibited; reporting required; penalties.-

857 (3)

858 (b)1. As used in this paragraph, the term "sexual
859 misconduct" means the oral, anal, or vaginal penetration by, or
860 union with, the sexual organ of another or the anal or vaginal
861 penetration of another by any other object, but does not include
862 an act done for a bona fide medical purpose or an internal
863 search conducted in the lawful performance of the employee's
864 duty.

865 2. Any employee of the department or a private correctional
866 facility, as defined in s. 944.710, who engages in sexual
867 misconduct with an inmate or an offender supervised by the
868 department in the community, without committing the crime of
869 sexual battery, commits a felony of the third degree, punishable
870 as provided in s. 775.082, s. 775.083, or s. 775.084.

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871 3. The consent of the inmate or offender supervised by the
872 department in the community to any act of sexual misconduct may
873 not be raised as a defense to a prosecution under this
874 paragraph.

875 4. This paragraph does not apply to any employee of the
876 department or any employee of a private correctional facility
877 who is legally married to an inmate or an offender supervised by
878 the department in the community, nor does it apply to any
879 employee who has no knowledge, and would have no reason to
880 believe, that the person with whom the employee has engaged in
881 sexual misconduct is an inmate or an offender under community
882 supervision of the department.

883 Section 13. Subsection (3) of section 944.605, Florida
884 Statutes, is amended to read:

885 944.605 Inmate release; notification.-

886 (3) (a) If an inmate is to be released after having served
887 one or more sentences for a conviction of robbery, sexual
888 battery, home-invasion robbery, or carjacking, or an inmate to
889 be released has a prior conviction for robbery, sexual battery,
890 home-invasion robbery, or carjacking or similar offense, in this
891 state or in another jurisdiction, and if such prior conviction
892 information is contained in department records, the department
893 shall release to the sheriff of the county in which the inmate
894 plans to reside, and, if the inmate plans to reside within a
895 municipality, to the chief of police of that municipality, the
896 following information, which must include, but need not be
897 limited to:

898 1. ~~(a)~~ Name;

899 2. ~~(b)~~ Social security number;

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900 ~~3.(e)~~ Date of birth;
 901 ~~4.(d)~~ Race;
 902 ~~5.(e)~~ Sex;
 903 ~~6.(f)~~ Height;
 904 ~~7.(g)~~ Weight;
 905 ~~8.(h)~~ Hair and eye color;
 906 ~~9.(i)~~ Tattoos or other identifying marks;
 907 ~~10.(j)~~ Fingerprints; and
 908 ~~11.(k)~~ A digitized photograph as provided in subsection
 909 (2).

910
 911 The department shall release the information specified in this
 912 paragraph ~~subsection~~ within 6 months prior to the discharge of
 913 the inmate from the custody of the department.

914 (b) The department may electronically submit the
 915 information listed in paragraph (a) to the sheriff of the county
 916 in which the inmate plans to reside, or, if the inmate plans to
 917 reside within a municipality, to the chief of police of that
 918 municipality.

919 Section 14. Section 944.804, Florida Statutes, is amended
 920 to read:

921 944.804 Elderly offenders correctional facilities program
 922 of 2000.—

923 (1) The Legislature finds that the number and percentage of
 924 elderly offenders in the Florida prison system is increasing and
 925 will continue to increase for the foreseeable future. The
 926 current cost to incarcerate elderly offenders is approximately
 927 three times the cost of incarceration of younger inmates.
 928 Alternatives to the current approaches to housing, programming,

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929 and treating the medical needs of elderly offenders, which may
930 reduce the overall costs associated with this segment of the
931 prison population, must be explored and implemented.

932 (2) The department shall establish and operate ~~a geriatric~~
933 facilities or geriatric dorms within a facility at the site
934 ~~known as River Junction Correctional Institution, which shall be~~
935 ~~an institution specifically~~ for generally healthy elderly
936 offenders who can perform general work appropriate for their
937 physical and mental condition. ~~Prior to reopening the facility,~~
938 ~~the department shall make modifications to the facility which~~
939 ~~will ensure its compliance with the Americans with Disabilities~~
940 ~~Act and decrease the likelihood of falls, accidental injury, and~~
941 ~~other conditions known to be particularly hazardous to the~~
942 ~~elderly.~~

943 (a) In order to decrease long-term medical costs to the
944 state, a preventive fitness/wellness program and diet
945 specifically designed to maintain the mental and physical health
946 of elderly offenders shall be developed and implemented. In
947 developing the program, the department shall give consideration
948 to preventive medical care for the elderly which shall include,
949 but not be limited to, maintenance of bone density, all aspects
950 of cardiovascular health, lung capacity, mental alertness, and
951 orientation. Existing policies and procedures shall be
952 reexamined and altered to encourage offenders to adopt a more
953 healthy lifestyle and maximize their level of functioning. The
954 program components shall be modified as data and experience are
955 received which measure the relative success of the program
956 components previously implemented.

957 (b) Consideration must be given to redirecting resources as

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958 a method of offsetting increased medical costs. Elderly
959 offenders are not likely to reenter society as a part of the
960 workforce, and programming resources would be better spent in
961 activities to keep the elderly offenders healthy, alert, and
962 oriented. Limited or restricted programming or activities for
963 elderly offenders will increase the daily cost of institutional
964 and health care, and programming opportunities adequate to
965 reduce the cost of care will be provided. Programming shall
966 include, but not be limited to, recreation, education, and
967 counseling which is needs-specific to elderly offenders.
968 Institutional staff shall be specifically trained to effectively
969 supervise elderly offenders and to detect physical or mental
970 changes which warrant medical attention before more serious
971 problems develop.

972 (3) The department shall adopt rules that specify which
973 elderly offenders shall be eligible to be housed at the
974 geriatric correctional facilities or dorms ~~River Junction~~
975 ~~Correctional Institution~~.

976 (4) While developing the criteria for eligibility, the
977 department shall use the information in existing offender
978 databases to determine the number of offenders who would be
979 eligible. The Legislature directs the department to consider a
980 broad range of elderly offenders for River Junction Correctional
981 Institution who have good disciplinary records and a medical
982 grade that will permit them to perform meaningful work
983 activities, including participation in an appropriate
984 correctional work program (PRIDE) facility, if available.

985 (5) The department shall also submit a study based on
986 existing offenders which projects the number of existing

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987 offenders who will qualify under the rules. An appendix to the
988 study shall identify the specific offenders who qualify.

989 Section 15. Section 944.8041, Florida Statutes, is amended
990 to read:

991 944.8041 Elderly offenders; annual review.—For the purpose
992 of providing information to the Legislature on elderly offenders
993 within the correctional system, the department and the
994 Correctional Medical Authority shall each submit annually a
995 report on the status and treatment of elderly offenders in the
996 state-administered and private state correctional systems and
997 ~~as well as such information on the department's geriatric~~
998 facilities and dorms River Junction Correctional Institution. In
999 order to adequately prepare the reports, the department and the
1000 Department of Management Services shall grant access to the
1001 Correctional Medical Authority which includes access to the
1002 facilities, offenders, and any information the agencies require
1003 to complete their reports. The review shall also include an
1004 examination of promising geriatric policies, practices, and
1005 programs currently implemented in other correctional systems
1006 within the United States. The reports, with specific findings
1007 and recommendations for implementation, shall be submitted to
1008 the President of the Senate and the Speaker of the House of
1009 Representatives on or before December 31 of each year.

1010 Section 16. Subsections (4) and (5) of section 945.41,
1011 Florida Statutes, are amended to read:

1012 945.41 Legislative intent of ss. 945.40-945.49.—It is the
1013 intent of the Legislature that mentally ill inmates in the
1014 custody of the Department of Corrections receive evaluation and
1015 appropriate treatment for their mental illness through a

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1016 continuum of services. It is further the intent of the
1017 Legislature that:

1018 (4) Any inmate sentenced as a youthful offender, or
1019 designated as a youthful offender by the department under
1020 ~~pursuant to~~ chapter 958, who is transferred pursuant to this act
1021 to a mental health treatment facility be separated from other
1022 inmates, if necessary, as determined by the warden of the
1023 treatment facility. ~~In no case shall any youthful offender be~~
1024 ~~placed at the Florida State Prison or the Union Correctional~~
1025 ~~Institution for mental health treatment.~~

1026 (5) The department may designate a mental health treatment
1027 facilities ~~facility~~ for adult, youthful, and female offenders or
1028 may contract with other appropriate entities, persons, or
1029 agencies for such services.

1030 Section 17. Subsections (5) and (6) of section 945.42,
1031 Florida Statutes, are amended to read:

1032 945.42 Definitions; ss. 945.40-945.49.—As used in ss.
1033 945.40-945.49, the following terms shall have the meanings
1034 ascribed to them, unless the context shall clearly indicate
1035 otherwise:

1036 (5) "In immediate need of care and treatment" means that an
1037 inmate is apparently mentally ill and is not able to be
1038 appropriately cared for in the institution where he or she is
1039 confined and that, but for being isolated in a more restrictive
1040 and secure housing environment, because of the apparent mental
1041 illness:

1042 (a)1. The inmate is demonstrating a refusal to care for
1043 himself or herself and without immediate treatment intervention
1044 is likely to continue to refuse to care for himself or herself,

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1045 and such refusal poses an immediate, real, and present threat of
1046 substantial harm to his or her well-being; or

1047 2. There is an immediate, real, and present threat that the
1048 inmate will inflict serious bodily harm on himself or herself or
1049 another person, as evidenced by recent behavior involving
1050 causing, attempting, or threatening such harm;

1051 ~~(b)1. The inmate has refused voluntary placement for
1052 treatment at a mental health treatment facility after sufficient
1053 and conscientious explanation and disclosure of the purpose of
1054 placement; or~~

1055 ~~2.~~ The inmate is unable to determine for himself or herself
1056 whether placement is necessary; and

1057 (c) All available less restrictive treatment alternatives
1058 that would offer an opportunity for improvement of the inmate's
1059 condition have been clinically determined to be inappropriate.

1060 (6) "In need of care and treatment" means that an inmate
1061 has a mental illness for which inpatient services in a mental
1062 health treatment facility are necessary and that, but for being
1063 isolated in a more restrictive and secure housing environment,
1064 because of the mental illness:

1065 (a)1. The inmate is demonstrating a refusal to care for
1066 himself or herself and without treatment is likely to continue
1067 to refuse to care for himself or herself, and such refusal poses
1068 a real and present threat of substantial harm to his or her
1069 well-being; or

1070 2. There is a substantial likelihood that in the near
1071 future the inmate will inflict serious bodily harm on himself or
1072 herself or another person, as evidenced by recent behavior
1073 causing, attempting, or threatening such harm;

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1074 ~~(b)1. The inmate has refused voluntary placement for~~
1075 ~~treatment at a mental health treatment facility after sufficient~~
1076 ~~and conscientious explanation and disclosure of the purpose of~~
1077 ~~placement; or~~

1078 ~~2.~~ The inmate is unable to determine for himself or herself
1079 whether placement is necessary; and

1080 (c) All available less restrictive treatment alternatives
1081 that would offer an opportunity for improvement of the inmate's
1082 condition have been clinically determined to be inappropriate.

1083 Section 18. Section 945.43, Florida Statutes, is amended to
1084 read:

1085 945.43 Placement ~~Admission~~ of inmate in a ~~to~~ mental health
1086 treatment facility.—

1087 (1) CRITERIA.—An inmate may be placed in ~~admitted to~~ a
1088 mental health treatment facility if he or she is mentally ill
1089 and is in need of care and treatment, as defined in s. 945.42.

1090 (2) PROCEDURE FOR PLACEMENT IN A MENTAL HEALTH TREATMENT
1091 FACILITY.—

1092 (a) An inmate may be placed in ~~admitted to~~ a mental health
1093 treatment facility after notice and hearing, upon the
1094 recommendation of the warden of the facility where the inmate is
1095 confined. The recommendation shall be entered on a petition and
1096 must be supported by the expert opinion of a psychiatrist and
1097 the second opinion of a psychiatrist or psychological
1098 professional. The petition shall be filed with the court in the
1099 county where the inmate is located.

1100 (b) A copy of the petition shall be served on the inmate,
1101 accompanied by a written notice that the inmate may apply
1102 immediately to the court to have an attorney appointed if the

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1103 inmate cannot afford one.

1104 (c) The petition for placement shall ~~may~~ be filed in the
1105 county in which the inmate is located. The hearing shall be held
1106 in the same county, and one of the inmate's physicians at the
1107 facility where the inmate is located shall appear as a witness
1108 at the hearing.

1109 (d) An attorney representing the inmate shall have access
1110 to the inmate and any records, including medical or mental
1111 health records, which are relevant to the representation of the
1112 inmate.

1113 (e) If the court finds that the inmate is mentally ill and
1114 in need of care and treatment, as defined in s. 945.42, the
1115 court shall order that he or she be placed in a mental health
1116 treatment facility or, if the inmate is at a mental health
1117 treatment facility, that he or she be retained there. The court
1118 shall authorize the mental health treatment facility to retain
1119 the inmate for up to 6 months. If, at the end of that time,
1120 continued placement is necessary, the warden shall apply to the
1121 Division of Administrative Hearings in accordance with s. 945.45
1122 for an order authorizing continued placement.

1123 (3) PROCEDURE FOR HEARING ON PLACEMENT OF AN INMATE IN A
1124 MENTAL HEALTH TREATMENT FACILITY.—

1125 (a) The court shall serve notice on the warden of the
1126 facility where the inmate is confined and the allegedly mentally
1127 ill inmate. The notice must specify the date, time, and place of
1128 the hearing; the basis for the allegation of mental illness; and
1129 the names of the examining experts. The hearing shall be held
1130 within 5 days, and the court may appoint a general or special
1131 magistrate to preside. The court may waive the presence of the

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1132 inmate at the hearing if the ~~such~~ waiver is consistent with the
1133 best interests of the inmate and the inmate's counsel does not
1134 object. The department may transport the inmate to the location
1135 of the hearing if the hearing is not conducted at the facility
1136 or by electronic means. The hearing may be as informal as is
1137 consistent with orderly procedure. One of the experts whose
1138 opinion supported the petition for placement shall be present at
1139 the hearing for information purposes.

1140 (b) If, at the hearing, the court finds that the inmate is
1141 mentally ill and in need of care and treatment, as defined in s.
1142 945.42, the court shall order that he or she be placed in a
1143 mental health treatment facility. The court shall provide a copy
1144 of its order authorizing placement and all supporting
1145 documentation relating to the inmate's condition to the warden
1146 of the treatment facility. If the court finds that the inmate is
1147 not mentally ill, it shall dismiss the petition for placement.

1148 (4) REFUSAL OF PLACEMENT.—The warden of an institution in
1149 which a mental health treatment facility is located may refuse
1150 to place any inmate in that treatment facility who is not
1151 accompanied by adequate court orders and documentation, as
1152 required in ss. 945.40-945.49.

1153 Section 19. Section 945.46, Florida Statutes, is amended to
1154 read:

1155 945.46 Initiation of involuntary placement proceedings with
1156 respect to a mentally ill inmate scheduled for release.—

1157 (1) If an inmate who is receiving mental health treatment
1158 in the department is scheduled for release through expiration of
1159 sentence or any other means, but continues to be mentally ill
1160 and in need of care and treatment, as defined in s. 945.42, the

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1161 warden is authorized to initiate procedures for involuntary
1162 placement pursuant to s. 394.467, 60 days prior to such release.

1163 (2) In addition, the warden may initiate procedures for
1164 involuntary examination pursuant to s. 394.463 for any inmate
1165 who has a mental illness and meets the criteria of s.
1166 394.463(1).

1167 (3) The department may transport an individual who is being
1168 released from its custody to a receiving or treatment facility
1169 for involuntary examination or placement. Such transport shall
1170 be made to a facility that is specified by the Department of
1171 Children and Family Services as able to meet the specific needs
1172 of the individual. If the Department of Children and Family
1173 Services does not specify a facility, transport may be made to
1174 the nearest receiving facility.

1175 Section 20. Section 946.42, Florida Statutes, is created to
1176 read:

1177 946.42 Use of inmates on private property.-

1178 (1) The department may allow inmates who meet the criteria
1179 provided in s. 946.40 to perform public works and enter onto
1180 private property for the following purposes:

1181 (a) To accept and collect donations for the use and benefit
1182 of the department.

1183 (b) To assist federal, state, local, and private agencies
1184 before, during, and after emergencies or disasters.

1185 (2) As used in this section, the term:

1186 (a) "Disaster" means any natural, technological, or civil
1187 emergency that causes damage of sufficient severity and
1188 magnitude to result in a declaration of a state of emergency by
1189 a county, the Governor, or the President of the United States.

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1190 (b) "Donations" means gifts of tangible personal property
1191 and includes equipment, fixtures, construction materials, food
1192 items, and other tangible personal property of a consumable and
1193 nonconsumable nature.

1194 (c) "Emergency" means any occurrence or threat of an
1195 occurrence, whether natural, technological, or manmade, in war
1196 or in peace, which results or may result in substantial injury
1197 or harm to the population or substantial damage to or loss of
1198 property.

1199 Section 21. Subsection (3) of section 948.001, Florida
1200 Statutes, is repealed.

1201 Section 22. Subsection (1) of section 948.03, Florida
1202 Statutes, is amended to read:

1203 948.03 Terms and conditions of probation.—

1204 (1) The court shall determine the terms and conditions of
1205 probation. Conditions specified in this section do not require
1206 oral pronouncement at the time of sentencing and may be
1207 considered standard conditions of probation. These conditions
1208 may include among them the following, that the probationer or
1209 offender in community control shall:

1210 (a) Report to the probation and parole supervisors as
1211 directed.

1212 (b) Permit such supervisors to visit him or her at his or
1213 her home or elsewhere.

1214 (c) Work faithfully at suitable employment insofar as may
1215 be possible.

1216 (d) Remain within a specified place.

1217 (e) Live without violating any law. A conviction in a court
1218 of law is not necessary for such a violation of law to

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1219 constitute a violation of probation, community control, or any
1220 other form of court-ordered supervision.

1221 (f)~~(e)~~ Make reparation or restitution to the aggrieved
1222 party for the damage or loss caused by his or her offense in an
1223 amount to be determined by the court. The court shall make such
1224 reparation or restitution a condition of probation, unless it
1225 determines that clear and compelling reasons exist to the
1226 contrary. If the court does not order restitution, or orders
1227 restitution of only a portion of the damages, as provided in s.
1228 775.089, it shall state on the record in detail the reasons
1229 therefor.

1230 (g)~~(f)~~ Effective July 1, 1994, and applicable for offenses
1231 committed on or after that date, make payment of the debt due
1232 and owing to a county or municipal detention facility under s.
1233 951.032 for medical care, treatment, hospitalization, or
1234 transportation received by the felony probationer while in that
1235 detention facility. The court, in determining whether to order
1236 such repayment and the amount of the ~~such~~ repayment, shall
1237 consider the amount of the debt, whether there was any fault of
1238 the institution for the medical expenses incurred, the financial
1239 resources of the felony probationer, the present and potential
1240 future financial needs and earning ability of the probationer,
1241 and dependents, and other appropriate factors.

1242 (h)~~(g)~~ Support his or her legal dependents to the best of
1243 his or her ability.

1244 (i)~~(h)~~ Make payment of the debt due and owing to the state
1245 under s. 960.17, subject to modification based on change of
1246 circumstances.

1247 (j)~~(i)~~ Pay any application fee assessed under s.

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1248 27.52(1)(b) and attorney's fees and costs assessed under s.
1249 938.29, subject to modification based on change of
1250 circumstances.

1251 (k)~~(j)~~ Not associate with persons engaged in criminal
1252 activities.

1253 (l)~~(k)~~ 1. Submit to random testing as directed by the
1254 correctional probation officer or the professional staff of the
1255 treatment center where he or she is receiving treatment to
1256 determine the presence or use of alcohol or controlled
1257 substances.

1258 2. If the offense was a controlled substance violation and
1259 the period of probation immediately follows a period of
1260 incarceration in the state correction system, the conditions
1261 shall include a requirement that the offender submit to random
1262 substance abuse testing intermittently throughout the term of
1263 supervision, upon the direction of the correctional probation
1264 officer as defined in s. 943.10(3).

1265 (m)~~(l)~~ Be prohibited from possessing, carrying, or owning
1266 any weapon without first procuring the consent of the
1267 correctional firearm unless authorized by the court and
1268 consented to by the probation officer.

1269 (n)~~(m)~~ Be prohibited from using intoxicants to excess or
1270 possessing any drugs or narcotics unless prescribed by a
1271 physician. The probationer or community controllee shall not
1272 knowingly visit places where intoxicants, drugs, or other
1273 dangerous substances are unlawfully sold, dispensed, or used.

1274 (o)~~(n)~~ Submit to the drawing of blood or other biological
1275 specimens as prescribed in ss. 943.325 and 948.014, and
1276 reimburse the appropriate agency for the costs of drawing and

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1277 transmitting the blood or other biological specimens to the
1278 Department of Law Enforcement.

1279 (p) Submit to the taking of a digitized photograph by the
1280 department as a part of the offender's records. This photograph
1281 may be displayed on the department's public website while the
1282 offender is under court-ordered supervision. However, this
1283 paragraph does not apply to an offender who is on pretrial
1284 intervention supervision or an offender whose identity is exempt
1285 from disclosure due to an exemption from the requirements of s.
1286 119.07.

1287 Section 23. Subsection (7) of section 948.09, Florida
1288 Statutes, is amended to read:

1289 948.09 Payment for cost of supervision and rehabilitation.—

1290 (7) The department shall establish a payment plan for all
1291 costs ordered by the courts for collection by the department and
1292 a priority order for payments, except that victim restitution
1293 payments authorized under s. 948.03(1)(f) ~~s. 948.03(1)(e)~~ take
1294 precedence over all other court-ordered payments. The department
1295 is not required to disburse cumulative amounts of less than \$10
1296 to individual payees established on this payment plan.

1297 Section 24. Section 948.101, Florida Statutes, is amended
1298 to read:

1299 948.101 Terms and conditions of community control ~~and~~
1300 ~~criminal quarantine community control.~~—

1301 (1) The court shall determine the terms and conditions of
1302 community control. Conditions specified in this subsection do
1303 not require oral pronouncement at the time of sentencing and may
1304 be considered standard conditions of community control.

1305 ~~(a)~~ The court shall require intensive supervision and

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1306 surveillance for an offender placed into community control,
1307 which may include, but is not limited to:

1308 (a)1. Specified contact with the parole and probation
1309 officer.

1310 (b)2. Confinement to an agreed-upon residence during hours
1311 away from employment and public service activities.

1312 (c)3. Mandatory public service.

1313 (d)4. Supervision by the Department of Corrections by means
1314 of an electronic monitoring device or system.

1315 (e)5. The standard conditions of probation set forth in s.
1316 948.03.

1317 ~~(b) For an offender placed on criminal quarantine community~~
1318 ~~control, the court shall require:~~

1319 ~~1. Electronic monitoring 24 hours per day.~~

1320 ~~2. Confinement to a designated residence during designated~~
1321 ~~hours.~~

1322 (2) The enumeration of specific kinds of terms and
1323 conditions does not prevent the court from adding thereto any
1324 other terms or conditions that the court considers proper.
1325 However, the sentencing court may only impose a condition of
1326 supervision allowing an offender convicted of s. 794.011, s.
1327 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in
1328 another state if the order stipulates that it is contingent upon
1329 the approval of the receiving state interstate compact
1330 authority. The court may rescind or modify at any time the terms
1331 and conditions theretofore imposed by it upon the offender in
1332 community control. However, if the court withholds adjudication
1333 of guilt or imposes a period of incarceration as a condition of
1334 community control, the period may not exceed 364 days, and

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1335 incarceration shall be restricted to a county facility, a
1336 probation and restitution center under the jurisdiction of the
1337 Department of Corrections, a probation program drug punishment
1338 phase I secure residential treatment institution, or a community
1339 residential facility owned or operated by any entity providing
1340 such services.

1341 ~~(3) The court may place a defendant who is being sentenced~~
1342 ~~for criminal transmission of HIV in violation of s. 775.0877 on~~
1343 ~~criminal quarantine community control. The Department of~~
1344 ~~Corrections shall develop and administer a criminal quarantine~~
1345 ~~community control program emphasizing intensive supervision with~~
1346 ~~24-hour-per-day electronic monitoring. Criminal quarantine~~
1347 ~~community control status must include surveillance and may~~
1348 ~~include other measures normally associated with community~~
1349 ~~control, except that specific conditions necessary to monitor~~
1350 ~~this population may be ordered.~~

1351 Section 25. Subsection (1) of section 948.11, Florida
1352 Statutes, is amended to read:

1353 948.11 Electronic monitoring devices.—

1354 (1)(a) The Department of Corrections may, at its
1355 discretion, electronically monitor an offender sentenced to
1356 community control.

1357 ~~(b) The Department of Corrections shall electronically~~
1358 ~~monitor an offender sentenced to criminal quarantine community~~
1359 ~~control 24 hours per day.~~

1360 Section 26. Present subsection (4) of section 951.26,
1361 Florida Statutes, is renumbered as subsection (5), and a new
1362 subsection (4) is added to that section, to read:

1363 951.26 Public safety coordinating councils.—

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1364 (4) The council may also develop a comprehensive local
1365 reentry plan that is designed to assist offenders released from
1366 incarceration to successfully reenter the community. The plan
1367 should cover at least a 5-year period. In developing the plan,
1368 the council shall coordinate with public safety officials and
1369 local community organizations who can provide offenders with
1370 reentry services, such as assistance with housing, health care,
1371 education, substance abuse treatment, and employment.

1372 Section 27. Section 958.03, Florida Statutes, is amended to
1373 read:

1374 958.03 Definitions.—As used in this act:

1375 (1) "Department" means the Department of Corrections.

1376 (2) "Community control program" means a form of intensive
1377 supervised custody in the community, including surveillance on
1378 weekends and holidays, administered by officers with restricted
1379 caseloads. Community control is an individualized program in
1380 which the freedom of the offender is restricted within the
1381 community, home, or noninstitutional residential placement and
1382 specific sanctions are imposed and enforced.

1383 (3) "Court" means a judge or successor who designates a
1384 defendant as a youthful offender.

1385 (4) "Probation" means a form of community supervision
1386 requiring specified contacts with parole and probation officers
1387 and other terms and conditions as provided in s. 948.03.

1388 (5) "Youthful offender" means any person who is sentenced
1389 as such by the court pursuant to s. 958.04 or is classified as
1390 such by the department pursuant to s. 958.11 ~~s. 958.04~~.

1391 (6) "Youthful offender facility" means any facility in the
1392 state correctional system which the department designates for

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1393 the care, custody, control, and supervision of youthful
1394 offenders.

1395 Section 28. Subsections (4) and (5) of section 958.04,
1396 Florida Statutes, are repealed.

1397 Section 29. Section 958.045, Florida Statutes, is amended
1398 to read:

1399 958.045 Youthful offender basic training program.—

1400 (1) The department shall develop and implement a basic
1401 training program for youthful offenders sentenced or classified
1402 by the department as youthful offenders pursuant to this
1403 chapter. The period of time to be served at the basic training
1404 program shall be no less than 120 days.

1405 (a) The program must ~~shall~~ include marching drills,
1406 calisthenics, a rigid dress code, manual labor assignments,
1407 physical training with obstacle courses, training in
1408 decisionmaking and personal development, general education
1409 development and adult basic education courses, and drug
1410 counseling and other rehabilitation programs.

1411 (b) The department shall adopt rules governing the
1412 administration of the youthful offender basic training program,
1413 requiring that basic training participants complete a structured
1414 disciplinary program, and allowing for a restriction on general
1415 inmate population privileges.

1416 (2) Upon receipt of youthful offenders, the department
1417 shall screen offenders for the basic training program. To
1418 participate, an offender must have no physical limitations that
1419 preclude participation in strenuous activity, must not be
1420 impaired, and must not have been previously incarcerated in a
1421 state or federal correctional facility. In screening offenders

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1422 for the basic training program, the department shall consider
1423 the offender's criminal history and the possible rehabilitative
1424 benefits of "shock" incarceration.

1425 (a) If an offender meets the specified criteria and space
1426 is available, the department shall request, in writing from the
1427 sentencing court, approval for the offender to participate in
1428 the basic training program. If the person is classified by the
1429 department as a youthful offender and the department is
1430 requesting approval from the sentencing court for placement in
1431 the program, the department shall, at the same time, notify the
1432 state attorney that the offender is being considered for
1433 placement in the basic training program. The notice must explain
1434 that the purpose of such placement is diversion from lengthy
1435 incarceration when a short "shock" incarceration could produce
1436 the same deterrent effect, and that the state attorney may,
1437 within 14 days after the mailing of the notice, notify the
1438 sentencing court in writing of objections, if any, to the
1439 placement of the offender in the basic training program.

1440 (b) The sentencing court shall notify the department in
1441 writing of placement approval no later than 21 days after
1442 receipt of the department's request for placement of the
1443 youthful offender in the basic training program. Failure to
1444 notify the department within 21 days shall be considered an
1445 approval by the sentencing court for placing the youthful
1446 offender in the basic training program. Each state attorney may
1447 develop procedures for notifying the victim that the offender is
1448 being considered for placement in the basic training program.

1449 (3) The program shall provide a short incarceration period
1450 of rigorous training to offenders who require a greater degree

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1451 of supervision than community control or probation provides.
1452 Basic training programs may be operated in secure areas in or
1453 adjacent to an adult institution notwithstanding s. 958.11. The
1454 program is not intended to divert offenders away from probation
1455 or community control but to divert them from long periods of
1456 incarceration when a short "shock" incarceration could produce
1457 the same deterrent effect.

1458 (4) Upon admittance to the department, an educational and
1459 substance abuse assessment shall be performed on each youthful
1460 offender. Upon admittance to the basic training program, each
1461 offender shall have a full substance abuse assessment to
1462 determine the offender's need for substance abuse treatment. The
1463 educational assessment shall be accomplished through the aid of
1464 the Test of Adult Basic Education or any other testing
1465 instrument approved by the Department of Education, as
1466 appropriate. Each offender who has not obtained a high school
1467 diploma shall be enrolled in an adult education program designed
1468 to aid the offender in improving his or her academic skills and
1469 earning a high school diploma. Further assessments of the prior
1470 vocational skills and future career education shall be provided
1471 to the offender. A periodic evaluation shall be made to assess
1472 the progress of each offender, and upon completion of the basic
1473 training program the assessment and information from the
1474 department's record of each offender shall be transferred to the
1475 appropriate community residential program.

1476 (5) (a) If an offender in the basic training program becomes
1477 unmanageable, the department may revoke the offender's gain-time
1478 and place the offender in disciplinary confinement in accordance
1479 with department rule. Except as provided in paragraph (b), the

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1480 offender must be readmitted to the basic training program upon
1481 completing the disciplinary process. Any period of time during
1482 which the offender is unable to participate in the basic
1483 training activities may be excluded from the time requirements
1484 specified in the program.

1485 (b) The department may terminate an offender from the basic
1486 training program if:

1487 1. The offender has committed or threatened to commit a
1488 violent act;

1489 2. The department determines that the offender is unable to
1490 participate in the basic training activities due to medical
1491 reasons;

1492 3. The offender's sentence is modified or expires;

1493 4. The department reassigns the offender to a different
1494 classification status; or

1495 5. The department determines that removing the offender
1496 from the program is in the best interests of the inmate or the
1497 security of the institution. If an offender in the basic
1498 training program becomes unmanageable, the department may revoke
1499 the offender's gain time and place the offender in disciplinary
1500 confinement for up to 30 days. Upon completion of the
1501 disciplinary process, the offender shall be readmitted to the
1502 basic training program, except for an offender who has committed
1503 or threatened to commit a violent act. If the offender is
1504 terminated from the program, the department may place the
1505 offender in the general population to complete the remainder of
1506 the offender's sentence. Any period of time in which the
1507 offender is unable to participate in the basic training
1508 activities may be excluded from the specified time requirements

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1509 ~~in the program.~~

1510 (c)~~(b)~~ If the offender is unable to participate in the
1511 basic training activities due to medical reasons, certified
1512 medical personnel shall examine the offender and shall consult
1513 with the basic training program director concerning the
1514 offender's termination from the program.

1515 (d)~~(e)~~ The portion of the sentence served before placement
1516 in the basic training program may not be counted toward program
1517 completion. The department shall submit a report to the court at
1518 least 30 days before the youthful offender is scheduled to
1519 complete the basic training program. The report must describe
1520 the offender's performance in the basic training program. If the
1521 youthful offender's performance is satisfactory, the court shall
1522 issue an order modifying the sentence imposed and place the
1523 offender on supervision ~~probation~~ subject to the offender
1524 successfully completing the remainder of the basic training
1525 program. The term of supervision ~~probation~~ may include placement
1526 in a community residential program. If the offender violates the
1527 conditions of supervision ~~probation~~, the court may revoke
1528 supervision ~~probation~~ and impose any sentence that it might have
1529 originally imposed.

1530 ~~(6) (a) Upon completing the basic training program, an~~
1531 ~~offender shall be transferred to a community residential program~~
1532 ~~and reside there for a term designated by department rule. If~~
1533 ~~the basic training program director determines that the offender~~
1534 ~~is not suitable for the community residential program but is~~
1535 ~~suitable for an alternative postrelease program or release plan,~~
1536 ~~within 30 days prior to program completion the department shall~~
1537 ~~evaluate the offender's needs and determine an alternative~~

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1538 ~~postrelease program or plan. The department's consideration~~
1539 ~~shall include, but not be limited to, the offender's employment,~~
1540 ~~residence, family situation, and probation or postrelease~~
1541 ~~supervision obligations. Upon the approval of the department,~~
1542 ~~the offender shall be released to an alternative postrelease~~
1543 ~~program or plan.~~

1544 ~~(b) While in the community residential program, as~~
1545 ~~appropriate, the offender shall engage in gainful employment,~~
1546 ~~and if any, shall pay restitution to the victim. If appropriate,~~
1547 ~~the offender may enroll in substance abuse counseling, and if~~
1548 ~~suitable, shall enroll in a general education development or~~
1549 ~~adult basic education class for the purpose of attaining a high~~
1550 ~~school diploma. Upon release from the community residential~~
1551 ~~program, the offender shall remain on probation, or other~~
1552 ~~postrelease supervision, and abide by the conditions of the~~
1553 ~~offender's probation or postrelease supervision. If, upon~~
1554 ~~transfer from the community residential program, the offender~~
1555 ~~has not completed the enrolled educational program, the offender~~
1556 ~~shall continue the educational program until completed. If the~~
1557 ~~offender fails to complete the program, the department may~~
1558 ~~request the court or the control release authority to execute an~~
1559 ~~order returning the offender back to the community residential~~
1560 ~~program until completion of the program.~~

1561 ~~(6)~~(7) The department shall implement the basic training
1562 program to the fullest extent feasible within the provisions of
1563 this section.

1564 ~~(8)~~(a) The Assistant Secretary for Youthful Offenders shall
1565 continuously screen all institutions, facilities, and programs
1566 for any inmate who meets the eligibility requirements for

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1567 ~~youthful offender designation specified in s. 958.04, whose age~~
1568 ~~does not exceed 24 years. The department may classify and assign~~
1569 ~~as a youthful offender any inmate who meets the criteria of s.~~
1570 ~~958.04.~~

1571 ~~(b) A youthful offender who is designated as such by the~~
1572 ~~department and assigned to the basic training program must be~~
1573 ~~eligible for control release pursuant to s. 947.146.~~

1574 ~~(c) The department shall work cooperatively with the~~
1575 ~~Control Release Authority or the Parole Commission to effect the~~
1576 ~~release of an offender who has successfully completed the~~
1577 ~~requirements of the basic training program.~~

1578 ~~(d) Upon an offender's completion of the basic training~~
1579 ~~program, the department shall submit a report to the releasing~~
1580 ~~authority that describes the offender's performance. If the~~
1581 ~~performance has been satisfactory, the release authority shall~~
1582 ~~establish a release date that is within 30 days following~~
1583 ~~program completion. As a condition of release, the offender~~
1584 ~~shall be placed in a community residential program as provided~~
1585 ~~in this section or on community supervision as provided in~~
1586 ~~chapter 947, and shall be subject to the conditions established~~
1587 ~~therefor.~~

1588 ~~(7)(9)~~ Upon commencement of the community residential
1589 program, the department shall submit annual reports to the
1590 Governor, the President of the Senate, and the Speaker of the
1591 House of Representatives detailing the extent of implementation
1592 of the basic training program and the community residential
1593 program, and outlining future goals and any recommendation the
1594 department has for future legislative action.

1595 (8)~~(10)~~ Due to serious and violent crime, the Legislature

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1596 declares the construction of a basic training facility is
1597 necessary to aid in alleviating an emergency situation.

1598 (9)~~(11)~~ The department shall provide a special training
1599 program for staff selected for the basic training program.

1600 (10)~~(12)~~ The department may develop performance-based
1601 contracts with qualified individuals, agencies, or corporations
1602 for the provision of any or all of the youthful offender
1603 programs.

1604 (11)~~(13)~~ An offender in the basic training program is
1605 subject to rules of conduct established by the department and
1606 may have sanctions imposed, including loss of privileges,
1607 restrictions, disciplinary confinement, alteration of release
1608 plans, or other program modifications in keeping with the nature
1609 and gravity of the program violation. Administrative or
1610 protective confinement, as necessary, may be imposed.

1611 (12)~~(14)~~ The department may establish a system of
1612 incentives within the basic training program which the
1613 department may use to promote participation in rehabilitative
1614 programs and the orderly operation of institutions and
1615 facilities.

1616 (13)~~(15)~~ The department shall develop a system for tracking
1617 recidivism, including, but not limited to, rearrests and
1618 recommitment of youthful offenders, and shall report on that
1619 system in its annual reports of the programs.

1620 Section 30. Section 958.09, Florida Statutes, is amended to
1621 read:

1622 958.09 Extension of limits of confinement.—Section 945.091
1623 and the rules developed by the department which implement s.
1624 945.091 apply to youthful offenders.

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1625 ~~(1) The department shall adopt rules permitting the~~
1626 ~~extension of the limits of the place of confinement of a~~
1627 ~~youthful offender when there is reasonable cause to believe that~~
1628 ~~the youthful offender will honor the trust placed in him or her.~~
1629 ~~The department may authorize a youthful offender, under~~
1630 ~~prescribed conditions and following investigation and approval~~
1631 ~~by the department which shall maintain a written record of such~~
1632 ~~action, to leave the place of his or her confinement for a~~
1633 ~~prescribed period of time:~~

1634 ~~(a) To visit a designated place or places for the purpose~~
1635 ~~of visiting a dying relative, attending the funeral of a~~
1636 ~~relative, or arranging for employment or for a suitable~~
1637 ~~residence for use when released; to otherwise aid in the~~
1638 ~~correction of the youthful offender; or for another compelling~~
1639 ~~reason consistent with the public interest and to return to the~~
1640 ~~same or another institution or facility designated by the~~
1641 ~~department; or~~

1642 ~~(b) To work at paid employment, participate in an~~
1643 ~~educational or a training program, or voluntarily serve a public~~
1644 ~~or nonprofit agency or a public service program in the~~
1645 ~~community; provided, that the youthful offender shall be~~
1646 ~~confined except during the hours of his or her employment,~~
1647 ~~education, training, or service and while traveling thereto and~~
1648 ~~therefrom.~~

1649 ~~(2) The department shall adopt rules as to the eligibility~~
1650 ~~of youthful offenders for such extension of confinement, the~~
1651 ~~disbursement of any earnings of youthful offenders, or the~~
1652 ~~entering into of agreements between the department and any~~
1653 ~~municipal, county, or federal agency for the housing of youthful~~

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1654 ~~offenders in a local place of confinement. However, no youthful~~
1655 ~~offender convicted of sexual battery pursuant to s. 794.011 is~~
1656 ~~eligible for any extension of the limits of confinement under~~
1657 ~~this section.~~

1658 ~~(3) The willful failure of a youthful offender to remain~~
1659 ~~within the extended limits of confinement or to return within~~
1660 ~~the time prescribed to the place of confinement designated by~~
1661 ~~the department is an escape from the custody of the department~~
1662 ~~and a felony of the third degree, punishable as provided by s.~~
1663 ~~775.082.~~

1664 ~~(4) The department may contract with other public and~~
1665 ~~private agencies for the confinement, treatment, counseling,~~
1666 ~~aftercare, or community supervision of youthful offenders when~~
1667 ~~consistent with the youthful offenders' welfare and the interest~~
1668 ~~of society.~~

1669 ~~(5) The department shall document and account for all forms~~
1670 ~~for disciplinary reports for inmates placed on extended limits~~
1671 ~~of confinement, which reports shall include, but not be limited~~
1672 ~~to, all violations of rules of conduct, the rule or rules~~
1673 ~~violated, the nature of punishment administered, the authority~~
1674 ~~ordering such punishment, and the duration of time during which~~
1675 ~~the inmate was subjected to confinement.~~

1676 ~~(6) (a) The department is authorized to levy fines only~~
1677 ~~through disciplinary reports and only against inmates placed on~~
1678 ~~extended limits of confinement. Major and minor infractions and~~
1679 ~~their respective punishments for inmates placed on extended~~
1680 ~~limits of confinement shall be defined by the rules of the~~
1681 ~~department, except that any fine shall not exceed \$50 for each~~
1682 ~~infraction deemed to be minor and \$100 for each infraction~~

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1683 ~~deemed to be major. Such fines shall be deposited in the General~~
1684 ~~Revenue Fund, and a receipt shall be given to the inmate.~~

1685 ~~(b) When the chief correctional officer determines that a~~
1686 ~~fine would be an appropriate punishment for a violation of the~~
1687 ~~rules of the department, both the determination of guilt and the~~
1688 ~~amount of the fine shall be determined by the disciplinary~~
1689 ~~committee pursuant to the method prescribed in s. 944.28(2)(c).~~

1690 ~~(c) The department shall develop rules defining the~~
1691 ~~policies and procedures for the administering of such fines.~~

1692 Section 31. Subsection (3) of section 958.11, Florida
1693 Statutes, is amended, and subsection (4) of that section is
1694 reenacted, to read:

1695 958.11 Designation of institutions and programs for
1696 youthful offenders; assignment from youthful offender
1697 institutions and programs.-

1698 (3) The department may assign a youthful offender to a
1699 nonyouthful offender facility and manage the youthful offender
1700 in a manner consistent with inmates in the adult population in
1701 ~~the state correctional system which is not designated for the~~
1702 ~~care, custody, control, and supervision of youthful offenders or~~
1703 ~~an age group only~~ in the following circumstances:

1704 (a) If the youthful offender is convicted of a new crime
1705 which is a felony under the laws of this state.

1706 (b) If the youthful offender becomes such a serious
1707 management or disciplinary problem resulting from serious or
1708 repeat violations of the rules of the department that his or her
1709 original assignment would be detrimental to the interests of the
1710 program and to other inmates committed thereto.

1711 (c) If the youthful offender needs medical treatment,

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1712 health services, or other specialized treatment otherwise not
1713 available at the youthful offender facility.

1714 (d) If the department determines that the youthful offender
1715 should be transferred outside of the state correctional system,
1716 as provided by law, for services not provided by the department.

1717 (e) If bed space is not available in a designated community
1718 residential facility, the department may assign a youthful
1719 offender to a community residential facility, provided that the
1720 youthful offender is separated from other offenders insofar as
1721 is practical.

1722 (f) If the youthful offender was originally assigned to a
1723 facility designated for 14-year-old to 18-year-old youthful
1724 offenders, but subsequently reaches the age of 19 years, the
1725 department may retain the youthful offender in the facility if
1726 the department determines that it is in the best interest of the
1727 youthful offender and the department.

1728 (g) If the department determines that a youthful offender
1729 originally assigned to a facility designated for the 19-24 age
1730 group is mentally or physically vulnerable by such placement,
1731 the department may reassign a youthful offender to a facility
1732 designated for the 14-18 age group if the department determines
1733 that a reassignment is necessary to protect the safety of the
1734 youthful offender or the institution.

1735 (h) If the department determines that a youthful offender
1736 originally assigned to a facility designated for the 14-18 age
1737 group is disruptive, incorrigible, or uncontrollable, the
1738 department may reassign a youthful offender to a facility
1739 designated for the 19-24 age group if the department determines
1740 that a reassignment would best serve the interests of the

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1741 youthful offender and the department.

1742 (i) If the youthful offender has reached the age of 25.

1743 (j) If the department cannot adequately ensure the safety
1744 of a youthful offender within a youthful offender facility.

1745 (k) If the youthful offender has a documented history of
1746 benefiting, promoting, or furthering the interests of a criminal
1747 gang, as defined in s. 874.03, while housed in a youthful
1748 offender facility.

1749 (l) If the department has classified an inmate as a
1750 youthful offender under subsection (4) and the department
1751 determines the assignment is necessary for population management
1752 purposes.

1753 (4) The department shall continuously screen all
1754 institutions, facilities, and programs for any inmate who meets
1755 the eligibility requirements for youthful offender designation
1756 specified in s. 958.04(1)(a) and (c) whose age does not exceed
1757 24 years and whose total length of sentence does not exceed 10
1758 years, and the department may classify and assign as a youthful
1759 offender any inmate who meets the criteria of this subsection.

1760 Section 32. Subsection (1) of section 951.231, Florida
1761 Statutes, is amended to read:

1762 951.231 County residential probation program.—

1763 (1) Any prisoner who has been sentenced under s. 921.18 to
1764 serve a sentence in a county residential probation center as
1765 described in s. 951.23 shall:

1766 (a) Reside at the center at all times other than during
1767 employment hours and reasonable travel time to and from his or
1768 her place of employment, except that supervisory personnel at a
1769 county residential probation center may extend the limits of

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1770 confinement to include, but not be limited to, probation,
1771 community control, or other appropriate supervisory techniques.

1772 (b) Seek and obtain employment on an 8-hours-a-day basis
1773 and retain employment throughout the period of time he or she is
1774 housed at the center.

1775 ~~(c) Participate in and complete the program required by s.~~
1776 ~~958.04(4), if required by the supervisor of the center.~~

1777 (c)-(d) Participate in the education program provided at the
1778 center, if required by the supervisor of the center.

1779 (d)-(e) Participate in the drug treatment program provided
1780 at the center, if required by the supervisor of the center.

1781 Section 33. This act shall take effect July 1, 2010.