

By the Committee on Criminal Justice; and 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 who is detained in a state or  
12          private correctional facility may not commit any lewd  
13          or lascivious behavior or other sexual act in the  
14          presence of an employee whom the detainee knows or  
15          reasonably should know is an employee; providing that  
16          a violation is a felony of the third degree; providing  
17          criminal penalties; amending s. 921.187, F.S.;  
18          removing a reference to criminal quarantine community  
19          control to conform to changes made by the act;  
20          amending s. 940.061, F.S.; requiring that the  
21          Department of Corrections send to the Parole  
22          Commission a monthly electronic list containing the  
23          names of inmates released from incarceration and  
24          offenders terminated from supervision and who may be  
25          eligible for restoration of civil rights; repealing s.  
26          944.293, F.S., relating to the restoration of an  
27          inmate's civil rights; amending s. 944.35, F.S.;  
28          prohibiting an employee of a private correctional  
29          facility from committing certain specified criminal

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30 acts; amending s. 944.605, F.S.; authorizing the  
31 Department of Corrections to electronically submit  
32 certain information to the sheriff of the county in  
33 which the inmate plans to reside and to the chief of  
34 police of the municipality where the inmate plans to  
35 reside; amending ss. 944.804 and 944.8041, F.S.;

36 authorizing the department to establish and operate  
37 certain geriatric facilities at prison institutions;  
38 removing provisions authorizing the operation of a  
39 specified facility; amending s. 945.41, F.S.; deleting  
40 a prohibition against the placement of youthful  
41 offenders at certain institutions for mental health  
42 treatment; amending s. 945.42, F.S.; deleting  
43 references to an inmate's refusal of voluntary  
44 placement for purposes of determining the inmate's  
45 need for care and treatment; amending s. 945.43, F.S.;

46 clarifying that an inmate is placed in a mental health  
47 treatment facility rather than admitted to the  
48 facility; authorizing the department to transport the  
49 inmate to the location of the hearing on such a  
50 placement; amending s. 945.46, F.S.; providing  
51 procedures for the transport of inmates who are  
52 mentally ill and who are scheduled to be released from  
53 confinement; creating s. 946.42, F.S.; authorizing the  
54 department to use inmate labor on private property  
55 under certain specified circumstances; defining terms;  
56 repealing s. 948.001(3), F.S., relating to the  
57 definition of the term "criminal quarantine community  
58 control," to conform to changes made by the act;

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59 amending s. 948.03, F.S.; providing additional  
60 conditions of probation to be applied to a defendant;  
61 deleting a requirement that a probationer obtain court  
62 authorization in order to possess a weapon; requiring  
63 that a digitized photograph of an offender be part of  
64 the offender's record; authorizing the department to  
65 display such photographs on its website for a  
66 specified period; providing certain exceptions;  
67 amending s. 948.09, F.S.; conforming a cross-  
68 reference; amending ss. 948.101 and 948.11, F.S.;  
69 revising terms and conditions of community control and  
70 deleting provisions related to criminal quarantine  
71 community control; amending s. 951.26, F.S.;  
72 authorizing each local public safety coordinating  
73 council to develop a comprehensive local reentry plan  
74 for offenders reentering the community; providing an  
75 effective date.

76  
77 Be It Enacted by the Legislature of the State of Florida:

78  
79 Section 1. Subsection (5) of section 384.34, Florida  
80 Statutes, is amended to read:

81 384.34 Penalties.—

82 (5) Any person who violates the provisions of s. 384.24(2)  
83 commits a felony of the third degree, punishable as provided in  
84 s. 775.082, s. 775.083, or s. 775.084 ~~ss. 775.082, 775.083,~~  
85 ~~775.084, and 775.0877(7)~~. Any person who commits multiple  
86 violations of the provisions of s. 384.24(2) commits a felony of  
87 the first degree, punishable as provided in s. 775.082, s.

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88 775.083, or s. 775.084 ~~ss. 775.082, 775.083, 775.084, and~~  
89 ~~775.0877(7).~~

90 Section 2. Section 775.0877, Florida Statutes, is amended  
91 to read:

92 775.0877 Criminal transmission of HIV; procedures;  
93 penalties.—

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

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

100 (b) Section 826.04, relating to incest,

101 (c) Section 800.04(1), (2), and (3), relating to lewd,  
102 lascivious, or indecent assault or act upon any person less than  
103 16 years of age,

104 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
105 relating to assault,

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

108 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),  
109 relating to battery,

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

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

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

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

116 (k) Section 825.102(2), relating to aggravated abuse of an

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117 elderly person or disabled adult,

118 (l) Section 827.071, relating to sexual performance by  
119 person less than 18 years of age,

120 (m) Sections 796.03, 796.07, and 796.08, relating to  
121 prostitution, or

122 (n) Section 381.0041(11)(b), relating to donation of blood,  
123 plasma, organs, skin, or other human tissue,

124

125 the court shall order the offender to undergo HIV testing, to be  
126 performed under the direction of the Department of Health in  
127 accordance with s. 381.004, unless the offender has undergone  
128 HIV testing voluntarily or pursuant to procedures established in  
129 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or  
130 rule providing for HIV testing of criminal offenders or inmates,  
131 subsequent to her or his arrest for an offense enumerated in  
132 paragraphs (a)-(n) for which she or he was convicted or to which  
133 she or he pled nolo contendere or guilty. The results of an HIV  
134 test performed on an offender pursuant to this subsection are  
135 not admissible in any criminal proceeding arising out of the  
136 alleged offense.

137 (2) The results of the HIV test must be disclosed under the  
138 direction of the Department of Health, to the offender who has  
139 been convicted of or pled nolo contendere or guilty to an  
140 offense specified in subsection (1), the public health agency of  
141 the county in which the conviction occurred and, if different,  
142 the county of residence of the offender, and, upon request  
143 pursuant to s. 960.003, to the victim or the victim's legal  
144 guardian, or the parent or legal guardian of the victim if the  
145 victim is a minor.

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146 (3) An offender who has undergone HIV testing pursuant to  
147 subsection (1), and to whom positive test results have been  
148 disclosed pursuant to subsection (2), who commits a second or  
149 subsequent offense enumerated in paragraphs (1)(a)-(n), commits  
150 criminal transmission of HIV, a felony of the third degree,  
151 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
152 ~~subsection (7)~~. A person may be convicted and sentenced  
153 separately for a violation of this subsection and for the  
154 underlying crime enumerated in paragraphs (1)(a)-(n).

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

158 (5) Nothing in this section requires that an HIV infection  
159 have occurred in order for an offender to have committed  
160 criminal transmission of HIV.

161 (6) For an alleged violation of any offense enumerated in  
162 paragraphs (1)(a)-(n) for which the consent of the victim may be  
163 raised as a defense in a criminal prosecution, it is an  
164 affirmative defense to a charge of violating this section that  
165 the person exposed knew that the offender was infected with HIV,  
166 knew that the action being taken could result in transmission of  
167 the HIV infection, and consented to the action voluntarily with  
168 that knowledge.

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

174 Section 3. Subsection (5) of section 796.08, Florida

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175 Statutes, is amended to read:

176 796.08 Screening for HIV and sexually transmissible  
177 diseases; providing penalties.—

178 (5) A person who:

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

180 (b) Procures another for prostitution by engaging in sexual  
181 activity in a manner likely to transmit the human  
182 immunodeficiency virus,

183  
184 and who, prior to the commission of such crime, had tested  
185 positive for human immunodeficiency virus and knew or had been  
186 informed that he or she had tested positive for human  
187 immunodeficiency virus and could possibly communicate such  
188 disease to another person through sexual activity commits  
189 criminal transmission of HIV, a felony of the third degree,  
190 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
191 ~~or s. 775.0877(7)~~. A person may be convicted and sentenced  
192 separately for a violation of this subsection and for the  
193 underlying crime of prostitution or procurement of prostitution.

194 Section 4. Section 800.09, Florida Statutes, is created to  
195 read:

196 800.09 Lewd or lascivious exhibition in the presence of an  
197 employee.—

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

199 (a) "Facility" means a state correctional institution, as  
200 defined in s. 944.02, or a private correctional facility, as  
201 defined in s. 944.710.

202 (b) "Employee" means any person employed by or performing  
203 contractual services for a public or private entity operating a

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204 facility or any person employed by or performing contractual  
205 services for the corporation operating the prison industry  
206 enhancement programs or the correctional work programs under  
207 part II of chapter 946. The term also includes any person who is  
208 a parole examiner with the Parole Commission.

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

210 1. Intentionally masturbate;

211 2. Intentionally expose the genitals in a lewd or  
212 lascivious manner; or

213 3. Intentionally commit any other sexual act that does not  
214 involve actual physical or sexual contact with the victim,  
215 including, but not limited to, sadomasochistic abuse, sexual  
216 bestiality, or the simulation of any act involving sexual  
217 activity,

218  
219 in the presence of a person he or she knows or reasonably should  
220 know is an employee.

221 (b) A person who violates paragraph (a) commits lewd or  
222 lascivious exhibition in the presence of an employee, a felony  
223 of the third degree, punishable as provided in s. 775.082, s.  
224 775.083, or s. 775.084.

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

227 921.187 Disposition and sentencing; alternatives;  
228 restitution.-

229 ~~(2) In addition to any other penalty provided by law for an~~  
230 ~~offense enumerated in s. 775.0877(1)(a)-(n), if the offender is~~  
231 ~~convicted of criminal transmission of HIV pursuant to s.~~  
232 ~~775.0877, the court may sentence the offender to criminal~~

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233 ~~quarantine community control as described in s. 948.001.~~

234 (2)~~(3)~~ The court shall require an offender to make  
235 restitution under s. 775.089, unless the court finds clear and  
236 compelling reasons not to order such restitution. If the court  
237 does not order restitution, or orders restitution of only a  
238 portion of the damages, as provided in s. 775.089, the court  
239 shall state the reasons on the record in detail. An order  
240 requiring an offender to make restitution to a victim under s.  
241 775.089 does not remove or diminish the requirement that the  
242 court order payment to the Crimes Compensation Trust Fund under  
243 chapter 960.

244 Section 6. Section 940.061, Florida Statutes, is amended to  
245 read:

246 940.061 Informing persons about executive clemency and  
247 restoration of civil rights.—The Department of Corrections shall  
248 inform and educate inmates and offenders on community  
249 supervision about the restoration of civil rights. Each month  
250 the Department of Corrections shall send to the Parole  
251 Commission an electronic list containing the names of inmates  
252 who have been released from incarceration, and offenders who  
253 have been terminated from supervision, and who may be eligible  
254 ~~and assist eligible inmates and offenders on community~~  
255 ~~supervision with the completion of the application for the~~  
256 restoration of civil rights.

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

258 Section 8. Paragraph (b) of subsection (3) of section  
259 944.35, Florida Statutes, is amended to read:

260 944.35 Authorized use of force; malicious battery and  
261 sexual misconduct prohibited; reporting required; penalties.—

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262 (3)

263 (b)1. As used in this paragraph, the term "sexual  
264 misconduct" means the oral, anal, or vaginal penetration by, or  
265 union with, the sexual organ of another or the anal or vaginal  
266 penetration of another by any other object, but does not include  
267 an act done for a bona fide medical purpose or an internal  
268 search conducted in the lawful performance of the employee's  
269 duty.

270 2. Any employee of the department or a private correctional  
271 facility, as defined in s. 944.710, who engages in sexual  
272 misconduct with an inmate or an offender supervised by the  
273 department in the community, without committing the crime of  
274 sexual battery, commits a felony of the third degree, punishable  
275 as provided in s. 775.082, s. 775.083, or s. 775.084.

276 3. The consent of the inmate or offender supervised by the  
277 department in the community to any act of sexual misconduct may  
278 not be raised as a defense to a prosecution under this  
279 paragraph.

280 4. This paragraph does not apply to any employee of the  
281 department or any employee of a private correctional facility  
282 who is legally married to an inmate or an offender supervised by  
283 the department in the community, nor does it apply to any  
284 employee who has no knowledge, and would have no reason to  
285 believe, that the person with whom the employee has engaged in  
286 sexual misconduct is an inmate or an offender under community  
287 supervision of the department.

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

290 944.605 Inmate release; notification.-

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291           (3) (a) If an inmate is to be released after having served  
292 one or more sentences for a conviction of robbery, sexual  
293 battery, home-invasion robbery, or carjacking, or an inmate to  
294 be released has a prior conviction for robbery, sexual battery,  
295 home-invasion robbery, or carjacking or similar offense, in this  
296 state or in another jurisdiction, and if such prior conviction  
297 information is contained in department records, the department  
298 shall release to the sheriff of the county in which the inmate  
299 plans to reside, and, if the inmate plans to reside within a  
300 municipality, to the chief of police of that municipality, the  
301 following information, which must include, but need not be  
302 limited to:

- 303           1. ~~(a)~~ Name;  
304           2. ~~(b)~~ Social security number;  
305           3. ~~(c)~~ Date of birth;  
306           4. ~~(d)~~ Race;  
307           5. ~~(e)~~ Sex;  
308           6. ~~(f)~~ Height;  
309           7. ~~(g)~~ Weight;  
310           8. ~~(h)~~ Hair and eye color;  
311           9. ~~(i)~~ Tattoos or other identifying marks;  
312           10. ~~(j)~~ Fingerprints; and  
313           11. ~~(k)~~ A digitized photograph as provided in subsection  
314 (2).

315  
316 The department shall release the information specified in this  
317 paragraph ~~subsection~~ within 6 months prior to the discharge of  
318 the inmate from the custody of the department.

319           (b) The department may electronically submit the

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320 information listed in paragraph (a) to the sheriff of the county  
321 in which the inmate plans to reside, and, if the inmate plans to  
322 reside within a municipality, to the chief of police of that  
323 municipality.

324 Section 10. Section 944.804, Florida Statutes, is amended  
325 to read:

326 944.804 Elderly offenders correctional facilities program  
327 of 2000.-

328 (1) The Legislature finds that the number and percentage of  
329 elderly offenders in the Florida prison system is increasing and  
330 will continue to increase for the foreseeable future. The  
331 current cost to incarcerate elderly offenders is approximately  
332 three times the cost of incarceration of younger inmates.  
333 Alternatives to the current approaches to housing, programming,  
334 and treating the medical needs of elderly offenders, which may  
335 reduce the overall costs associated with this segment of the  
336 prison population, must be explored and implemented.

337 (2) The department shall establish and operate ~~a geriatric~~  
338 facilities or geriatric dorms within a facility at the site  
339 ~~known as River Junction Correctional Institution, which shall be~~  
340 ~~an institution specifically~~ for generally healthy elderly  
341 offenders who can perform general work appropriate for their  
342 physical and mental condition. ~~Prior to reopening the facility,~~  
343 ~~the department shall make modifications to the facility which~~  
344 ~~will ensure its compliance with the Americans with Disabilities~~  
345 ~~Act and decrease the likelihood of falls, accidental injury, and~~  
346 ~~other conditions known to be particularly hazardous to the~~  
347 ~~elderly.~~

348 (a) In order to decrease long-term medical costs to the

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349 state, a preventive fitness/wellness program and diet  
350 specifically designed to maintain the mental and physical health  
351 of elderly offenders shall be developed and implemented. In  
352 developing the program, the department shall give consideration  
353 to preventive medical care for the elderly which shall include,  
354 but not be limited to, maintenance of bone density, all aspects  
355 of cardiovascular health, lung capacity, mental alertness, and  
356 orientation. Existing policies and procedures shall be  
357 reexamined and altered to encourage offenders to adopt a more  
358 healthy lifestyle and maximize their level of functioning. The  
359 program components shall be modified as data and experience are  
360 received which measure the relative success of the program  
361 components previously implemented.

362 (b) Consideration must be given to redirecting resources as  
363 a method of offsetting increased medical costs. Elderly  
364 offenders are not likely to reenter society as a part of the  
365 workforce, and programming resources would be better spent in  
366 activities to keep the elderly offenders healthy, alert, and  
367 oriented. Limited or restricted programming or activities for  
368 elderly offenders will increase the daily cost of institutional  
369 and health care, and programming opportunities adequate to  
370 reduce the cost of care will be provided. Programming shall  
371 include, but not be limited to, recreation, education, and  
372 counseling which is needs-specific to elderly offenders.  
373 Institutional staff shall be specifically trained to effectively  
374 supervise elderly offenders and to detect physical or mental  
375 changes which warrant medical attention before more serious  
376 problems develop.

377 (3) The department shall adopt rules that specify which

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378 elderly offenders shall be eligible to be housed at the  
379 geriatric correctional facilities or dorms ~~River Junction~~  
380 ~~Correctional Institution~~.

381 (4) While developing the criteria for eligibility, the  
382 department shall use the information in existing offender  
383 databases to determine the number of offenders who would be  
384 eligible. The Legislature directs the department to consider a  
385 broad range of elderly offenders for the department's geriatric  
386 facilities or dorms ~~River Junction Correctional Institution~~ who  
387 have good disciplinary records and a medical grade that will  
388 permit them to perform meaningful work activities, including  
389 participation in an appropriate correctional work program  
390 (PRIDE) facility, if available.

391 (5) The department shall also submit a study based on  
392 existing offenders which projects the number of existing  
393 offenders who will qualify under the rules. An appendix to the  
394 study shall identify the specific offenders who qualify.

395 Section 11. Section 944.8041, Florida Statutes, is amended  
396 to read:

397 944.8041 Elderly offenders; annual review.—For the purpose  
398 of providing information to the Legislature on elderly offenders  
399 within the correctional system, the department and the  
400 Correctional Medical Authority shall each submit annually a  
401 report on the status and treatment of elderly offenders in the  
402 state-administered and private state correctional systems and  
403 ~~as well as such information on~~ the department's geriatric  
404 facilities and dorms ~~River Junction Correctional Institution~~. In  
405 order to adequately prepare the reports, the department and the  
406 Department of Management Services shall grant access to the

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407 Correctional Medical Authority which includes access to the  
408 facilities, offenders, and any information the agencies require  
409 to complete their reports. The review shall also include an  
410 examination of promising geriatric policies, practices, and  
411 programs currently implemented in other correctional systems  
412 within the United States. The reports, with specific findings  
413 and recommendations for implementation, shall be submitted to  
414 the President of the Senate and the Speaker of the House of  
415 Representatives on or before December 31 of each year.

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

418 945.41 Legislative intent of ss. 945.40-945.49.—It is the  
419 intent of the Legislature that mentally ill inmates in the  
420 custody of the Department of Corrections receive evaluation and  
421 appropriate treatment for their mental illness through a  
422 continuum of services. It is further the intent of the  
423 Legislature that:

424 (4) Any inmate sentenced as a youthful offender, or  
425 designated as a youthful offender by the department under  
426 ~~pursuant to~~ chapter 958, who is transferred pursuant to this act  
427 to a mental health treatment facility be separated from other  
428 inmates, if necessary, as determined by the warden of the  
429 treatment facility. ~~In no case shall any youthful offender be~~  
430 ~~placed at the Florida State Prison or the Union Correctional~~  
431 ~~Institution for mental health treatment.~~

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

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436 Section 13. Subsections (5) and (6) of section 945.42,  
437 Florida Statutes, are amended to read:

438 945.42 Definitions; ss. 945.40-945.49.—As used in ss.  
439 945.40-945.49, the following terms shall have the meanings  
440 ascribed to them, unless the context shall clearly indicate  
441 otherwise:

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

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

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

457 ~~(b)1. The inmate has refused voluntary placement for~~  
458 ~~treatment at a mental health treatment facility after sufficient~~  
459 ~~and conscientious explanation and disclosure of the purpose of~~  
460 ~~placement; or~~

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

463 (c) All available less restrictive treatment alternatives  
464 that would offer an opportunity for improvement of the inmate's

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465 condition have been clinically determined to be inappropriate.

466 (6) "In need of care and treatment" means that an inmate  
467 has a mental illness for which inpatient services in a mental  
468 health treatment facility are necessary and that, but for being  
469 isolated in a more restrictive and secure housing environment,  
470 because of the mental illness:

471 (a)1. The inmate is demonstrating a refusal to care for  
472 himself or herself and without treatment is likely to continue  
473 to refuse to care for himself or herself, and such refusal poses  
474 a real and present threat of substantial harm to his or her  
475 well-being; or

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

480 ~~(b)1. The inmate has refused voluntary placement for~~  
481 ~~treatment at a mental health treatment facility after sufficient~~  
482 ~~and conscientious explanation and disclosure of the purpose of~~  
483 ~~placement; or~~

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

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

489 Section 14. Section 945.43, Florida Statutes, is amended to  
490 read:

491 945.43 Placement ~~Admission~~ of inmate in a ~~to~~ mental health  
492 treatment facility.—

493 (1) CRITERIA.—An inmate may be placed in ~~admitted to~~ a

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494 mental health treatment facility if he or she is mentally ill  
495 and is in need of care and treatment, as defined in s. 945.42.

496 (2) PROCEDURE FOR PLACEMENT IN A MENTAL HEALTH TREATMENT  
497 FACILITY.—

498 (a) An inmate may be placed in ~~admitted to~~ a mental health  
499 treatment facility after notice and hearing, upon the  
500 recommendation of the warden of the facility where the inmate is  
501 confined. The recommendation shall be entered on a petition and  
502 must be supported by the expert opinion of a psychiatrist and  
503 the second opinion of a psychiatrist or psychological  
504 professional. The petition shall be filed with the court in the  
505 county where the inmate is located.

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

510 (c) The petition for placement shall ~~may~~ be filed in the  
511 county in which the inmate is located. The hearing shall be held  
512 in the same county, and one of the inmate's physicians at the  
513 facility where the inmate is located shall appear as a witness  
514 at the hearing.

515 (d) An attorney representing the inmate shall have access  
516 to the inmate and any records, including medical or mental  
517 health records, which are relevant to the representation of the  
518 inmate.

519 (e) If the court finds that the inmate is mentally ill and  
520 in need of care and treatment, as defined in s. 945.42, the  
521 court shall order that he or she be placed in a mental health  
522 treatment facility or, if the inmate is at a mental health

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523 treatment facility, that he or she be retained there. The court  
524 shall authorize the mental health treatment facility to retain  
525 the inmate for up to 6 months. If, at the end of that time,  
526 continued placement is necessary, the warden shall apply to the  
527 Division of Administrative Hearings in accordance with s. 945.45  
528 for an order authorizing continued placement.

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

531 (a) The court shall serve notice on the warden of the  
532 facility where the inmate is confined and the allegedly mentally  
533 ill inmate. The notice must specify the date, time, and place of  
534 the hearing; the basis for the allegation of mental illness; and  
535 the names of the examining experts. The hearing shall be held  
536 within 5 days, and the court may appoint a general or special  
537 magistrate to preside. The court may waive the presence of the  
538 inmate at the hearing if the ~~such~~ waiver is consistent with the  
539 best interests of the inmate and the inmate's counsel does not  
540 object. The department may transport the inmate to the location  
541 of the hearing if the hearing is not conducted at the facility  
542 or by electronic means. The hearing may be as informal as is  
543 consistent with orderly procedure. One of the experts whose  
544 opinion supported the petition for placement shall be present at  
545 the hearing for information purposes.

546 (b) If, at the hearing, the court finds that the inmate is  
547 mentally ill and in need of care and treatment, as defined in s.  
548 945.42, the court shall order that he or she be placed in a  
549 mental health treatment facility. The court shall provide a copy  
550 of its order authorizing placement and all supporting  
551 documentation relating to the inmate's condition to the warden

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552 of the treatment facility. If the court finds that the inmate is  
553 not mentally ill, it shall dismiss the petition for placement.

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

559 Section 15. Section 945.46, Florida Statutes, is amended to  
560 read:

561 945.46 Initiation of involuntary placement proceedings with  
562 respect to a mentally ill inmate scheduled for release.—

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

569 (2) In addition, the warden may initiate procedures for  
570 involuntary examination pursuant to s. 394.463 for any inmate  
571 who has a mental illness and meets the criteria of s.  
572 394.463(1).

573 (3) The department may transport an individual who is being  
574 released from its custody to a receiving or treatment facility  
575 for involuntary examination or placement. Such transport shall  
576 be made to a facility that is specified by the Department of  
577 Children and Family Services as able to meet the specific needs  
578 of the individual. If the Department of Children and Family  
579 Services does not specify a facility, transport may be made to  
580 the nearest receiving facility.

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581 Section 16. Section 946.42, Florida Statutes, is created to  
582 read:

583 946.42 Use of inmates on private property.-

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

587 (a) To accept and collect donations for the use and benefit  
588 of the department.

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

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

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

596 (b) "Donations" means gifts of tangible personal property  
597 and includes equipment, fixtures, construction materials, food  
598 items, and other tangible personal property of a consumable and  
599 nonconsumable nature.

600 (c) "Emergency" means any occurrence or threat of an  
601 occurrence, whether natural, technological, or manmade, in war  
602 or in peace, which results or may result in substantial injury  
603 or harm to the population or substantial damage to or loss of  
604 property.

605 Section 17. Subsection (3) of section 948.001, Florida  
606 Statutes, is repealed.

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

609 948.03 Terms and conditions of probation.-

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610 (1) The court shall determine the terms and conditions of  
611 probation. Conditions specified in this section do not require  
612 oral pronouncement at the time of sentencing and may be  
613 considered standard conditions of probation. These conditions  
614 may include among them the following, that the probationer or  
615 offender in community control shall:

616 (a) Report to the probation and parole supervisors as  
617 directed.

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

620 (c) Work faithfully at suitable employment insofar as may  
621 be possible.

622 (d) Remain within a specified place.

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

627 (f)~~(e)~~ Make reparation or restitution to the aggrieved  
628 party for the damage or loss caused by his or her offense in an  
629 amount to be determined by the court. The court shall make such  
630 reparation or restitution a condition of probation, unless it  
631 determines that clear and compelling reasons exist to the  
632 contrary. If the court does not order restitution, or orders  
633 restitution of only a portion of the damages, as provided in s.  
634 775.089, it shall state on the record in detail the reasons  
635 therefor.

636 (g)~~(f)~~ Effective July 1, 1994, and applicable for offenses  
637 committed on or after that date, make payment of the debt due  
638 and owing to a county or municipal detention facility under s.

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639 951.032 for medical care, treatment, hospitalization, or  
640 transportation received by the felony probationer while in that  
641 detention facility. The court, in determining whether to order  
642 such repayment and the amount of the ~~such~~ repayment, shall  
643 consider the amount of the debt, whether there was any fault of  
644 the institution for the medical expenses incurred, the financial  
645 resources of the felony probationer, the present and potential  
646 future financial needs and earning ability of the probationer,  
647 and dependents, and other appropriate factors.

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

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

653 (j) ~~(i)~~ Pay any application fee assessed under s.  
654 27.52(1)(b) and attorney's fees and costs assessed under s.  
655 938.29, subject to modification based on change of  
656 circumstances.

657 (k) ~~(j)~~ Not associate with persons engaged in criminal  
658 activities.

659 (l) ~~(k)~~ 1. Submit to random testing as directed by the  
660 correctional probation officer or the professional staff of the  
661 treatment center where he or she is receiving treatment to  
662 determine the presence or use of alcohol or controlled  
663 substances.

664 2. If the offense was a controlled substance violation and  
665 the period of probation immediately follows a period of  
666 incarceration in the state correction system, the conditions  
667 shall include a requirement that the offender submit to random

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668 substance abuse testing intermittently throughout the term of  
669 supervision, upon the direction of the correctional probation  
670 officer as defined in s. 943.10(3).

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

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

680 (o)~~(n)~~ Submit to the drawing of blood or other biological  
681 specimens as prescribed in ss. 943.325 and 948.014, and  
682 reimburse the appropriate agency for the costs of drawing and  
683 transmitting the blood or other biological specimens to the  
684 Department of Law Enforcement.

685 (p) Submit to the taking of a digitized photograph by the  
686 department as a part of the offender's records. This photograph  
687 may be displayed on the department's public website while the  
688 offender is under court-ordered supervision. However, this  
689 paragraph does not apply to an offender who is on pretrial  
690 intervention supervision or an offender whose identity is exempt  
691 from disclosure due to an exemption from the requirements of s.  
692 119.07.

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

695 948.09 Payment for cost of supervision and rehabilitation.—

696 (7) The department shall establish a payment plan for all

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697 costs ordered by the courts for collection by the department and  
698 a priority order for payments, except that victim restitution  
699 payments authorized under s. 948.03(1)(f) ~~s. 948.03(1)(e)~~ take  
700 precedence over all other court-ordered payments. The department  
701 is not required to disburse cumulative amounts of less than \$10  
702 to individual payees established on this payment plan.

703 Section 20. Section 948.101, Florida Statutes, is amended  
704 to read:

705 948.101 Terms and conditions of community control ~~and~~  
706 ~~criminal quarantine community control.~~

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

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

714 (a)1. Specified contact with the parole and probation  
715 officer.

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

718 (c)3. Mandatory public service.

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

721 (e)5. The standard conditions of probation set forth in s.  
722 948.03.

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

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

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726 ~~2. Confinement to a designated residence during designated~~  
727 ~~hours.~~

728 (2) The enumeration of specific kinds of terms and  
729 conditions does not prevent the court from adding ~~thereto~~ any  
730 other terms or conditions that the court considers proper.  
731 However, the sentencing court may only impose a condition of  
732 supervision allowing an offender convicted of s. 794.011, s.  
733 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in  
734 another state if the order stipulates that it is contingent upon  
735 the approval of the receiving state interstate compact  
736 authority. The court may rescind or modify at any time the terms  
737 and conditions theretofore imposed by it upon the offender in  
738 community control. However, if the court withholds adjudication  
739 of guilt or imposes a period of incarceration as a condition of  
740 community control, the period may not exceed 364 days, and  
741 incarceration shall be restricted to a county facility, a  
742 probation and restitution center under the jurisdiction of the  
743 Department of Corrections, a probation program drug punishment  
744 phase I secure residential treatment institution, or a community  
745 residential facility owned or operated by any entity providing  
746 such services.

747 ~~(3) The court may place a defendant who is being sentenced~~  
748 ~~for criminal transmission of HIV in violation of s. 775.0877 on~~  
749 ~~criminal quarantine community control. The Department of~~  
750 ~~Corrections shall develop and administer a criminal quarantine~~  
751 ~~community control program emphasizing intensive supervision with~~  
752 ~~24-hour-per-day electronic monitoring. Criminal quarantine~~  
753 ~~community control status must include surveillance and may~~  
754 ~~include other measures normally associated with community~~

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755 ~~control, except that specific conditions necessary to monitor~~  
756 ~~this population may be ordered.~~

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

759 948.11 Electronic monitoring devices.—

760 (1)~~(a)~~ The Department of Corrections may, at its  
761 discretion, electronically monitor an offender sentenced to  
762 community control.

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

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

769 951.26 Public safety coordinating councils.—

770 (4) The council may also develop a comprehensive local  
771 reentry plan that is designed to assist offenders released from  
772 incarceration to successfully reenter the community. The plan  
773 should cover at least a 5-year period. In developing the plan,  
774 the council shall coordinate with public safety officials and  
775 local community organizations who can provide offenders with  
776 reentry services, such as assistance with housing, health care,  
777 education, substance abuse treatment, and employment.

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