

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.