

By the Committees on Children, Families, and Elder Affairs; and
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. 907.043, F.S.;
18 updating monthly instead of weekly the register
19 prepared by a pretrial release program that is readily
20 available to the public at the office of the clerk of
21 the circuit court; amending s. 921.187, F.S.; removing
22 a reference to criminal quarantine community control
23 to conform to changes made by the act; amending s.
24 940.061, F.S.; requiring that the Department of
25 Corrections send to the Parole Commission a monthly
26 electronic list containing the names of inmates
27 released from incarceration and offenders terminated
28 from supervision and who may be eligible for
29 restoration of civil rights; repealing s. 944.293,

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30 F.S., relating to the restoration of an inmate's civil
31 rights; amending s. 944.35, F.S.; prohibiting an
32 employee of a private correctional facility from
33 committing certain specified criminal acts; amending
34 s. 944.605, F.S.; authorizing the Department of
35 Corrections to electronically submit certain
36 information to the sheriff of the county in which the
37 inmate plans to reside and to the chief of police of
38 the municipality where the inmate plans to reside;
39 amending ss. 944.804 and 944.8041, F.S.; authorizing
40 the department to establish and operate certain
41 geriatric facilities at prison institutions; removing
42 provisions authorizing the operation of a specified
43 facility; amending s. 945.41, F.S.; deleting a
44 prohibition against the placement of youthful
45 offenders at certain institutions for mental health
46 treatment; amending s. 945.42, F.S.; deleting
47 references to an inmate's refusal of voluntary
48 placement for purposes of determining the inmate's
49 need for care and treatment; amending s. 945.43, F.S.;
50 clarifying that an inmate is placed in a mental health
51 treatment facility rather than admitted to the
52 facility; authorizing the department to transport the
53 inmate to the location of the hearing on such a
54 placement; amending s. 945.46, F.S.; providing
55 procedures for the transport of inmates who are
56 mentally ill and who are scheduled to be released from
57 confinement; creating s. 946.42, F.S.; authorizing the
58 department to use inmate labor on private property

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59 under certain specified circumstances; defining terms;
60 repealing s. 948.001(3), F.S., relating to the
61 definition of the term "criminal quarantine community
62 control," to conform to changes made by the act;
63 amending s. 948.03, F.S.; providing additional
64 conditions of probation to be applied to a defendant;
65 deleting a requirement that a probationer obtain court
66 authorization in order to possess a weapon; requiring
67 that a digitized photograph of an offender be part of
68 the offender's record; authorizing the department to
69 display such photographs on its website for a
70 specified period; providing certain exceptions;
71 amending s. 948.09, F.S.; conforming a cross-
72 reference; amending ss. 948.101 and 948.11, F.S.;
73 revising terms and conditions of community control and
74 deleting provisions related to criminal quarantine
75 community control; amending s. 951.26, F.S.;
76 authorizing each local public safety coordinating
77 council to develop a comprehensive local reentry plan
78 for offenders reentering the community; providing an
79 effective date.

80
81 Be It Enacted by the Legislature of the State of Florida:

82
83 Section 1. Subsection (5) of section 384.34, Florida
84 Statutes, is amended to read:

85 384.34 Penalties.—

86 (5) Any person who violates the provisions of s. 384.24(2)
87 commits a felony of the third degree, punishable as provided in

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88 s. 775.082, s. 775.083, or s. 775.084 ~~ss. 775.082, 775.083,~~
89 ~~775.084, and 775.0877(7)~~. Any person who commits multiple
90 violations of the provisions of s. 384.24(2) commits a felony of
91 the first degree, punishable as provided in s. 775.082, s.
92 775.083, or s. 775.084 ~~ss. 775.082, 775.083, 775.084, and~~
93 ~~775.0877(7)~~.

94 Section 2. Section 775.0877, Florida Statutes, is amended
95 to read:

96 775.0877 Criminal transmission of HIV; procedures;
97 penalties.—

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

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

104 (b) Section 826.04, relating to incest,

105 (c) Section 800.04(1), (2), and (3), relating to lewd,
106 lascivious, or indecent assault or act upon any person less than
107 16 years of age,

108 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
109 relating to assault,

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

112 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
113 relating to battery,

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

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

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117 (i) Section 827.03(2), relating to aggravated child abuse,
118 (j) Section 825.102(1), relating to abuse of an elderly
119 person or disabled adult,
120 (k) Section 825.102(2), relating to aggravated abuse of an
121 elderly person or disabled adult,
122 (l) Section 827.071, relating to sexual performance by
123 person less than 18 years of age,
124 (m) Sections 796.03, 796.07, and 796.08, relating to
125 prostitution, or
126 (n) Section 381.0041(11)(b), relating to donation of blood,
127 plasma, organs, skin, or other human tissue,
128
129 the court shall order the offender to undergo HIV testing, to be
130 performed under the direction of the Department of Health in
131 accordance with s. 381.004, unless the offender has undergone
132 HIV testing voluntarily or pursuant to procedures established in
133 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or
134 rule providing for HIV testing of criminal offenders or inmates,
135 subsequent to her or his arrest for an offense enumerated in
136 paragraphs (a)-(n) for which she or he was convicted or to which
137 she or he pled nolo contendere or guilty. The results of an HIV
138 test performed on an offender pursuant to this subsection are
139 not admissible in any criminal proceeding arising out of the
140 alleged offense.
141 (2) The results of the HIV test must be disclosed under the
142 direction of the Department of Health, to the offender who has
143 been convicted of or pled nolo contendere or guilty to an
144 offense specified in subsection (1), the public health agency of
145 the county in which the conviction occurred and, if different,

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146 the county of residence of the offender, and, upon request
147 pursuant to s. 960.003, to the victim or the victim's legal
148 guardian, or the parent or legal guardian of the victim if the
149 victim is a minor.

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

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

162 (5) Nothing in this section requires that an HIV infection
163 have occurred in order for an offender to have committed
164 criminal transmission of HIV.

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

173 ~~(7) In addition to any other penalty provided by law for an~~
174 ~~offense enumerated in paragraphs (1)(a)-(n), the court may~~

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175 ~~require an offender convicted of criminal transmission of HIV to~~
176 ~~serve a term of criminal quarantine community control, as~~
177 ~~described in s. 948.001.~~

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

180 796.08 Screening for HIV and sexually transmissible
181 diseases; providing penalties.—

182 (5) A person who:

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

184 (b) Procures another for prostitution by engaging in sexual
185 activity in a manner likely to transmit the human
186 immunodeficiency virus,

187

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

198 Section 4. Section 800.09, Florida Statutes, is created to
199 read:

200 800.09 Lewd or lascivious exhibition in the presence of an
201 employee.—

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

203 (a) "Facility" means a state correctional institution, as

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204 defined in s. 944.02, or a private correctional facility, as
205 defined in s. 944.710.

206 (b) "Employee" means any person employed by or performing
207 contractual services for a public or private entity operating a
208 facility or any person employed by or performing contractual
209 services for the corporation operating the prison industry
210 enhancement programs or the correctional work programs under
211 part II of chapter 946. The term also includes any person who is
212 a parole examiner with the Parole Commission.

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

214 1. Intentionally masturbate;

215 2. Intentionally expose the genitals in a lewd or
216 lascivious manner; or

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

222
223 in the presence of a person he or she knows or reasonably should
224 know is an employee.

225 (b) A person who violates paragraph (a) commits lewd or
226 lascivious exhibition in the presence of an employee, a felony
227 of the third degree, punishable as provided in s. 775.082, s.
228 775.083, or s. 775.084.

229 Section 5. Paragraph (b) of subsection (3) of section
230 907.043, Florida Statutes, is amended to read:

231 907.043 Pretrial release; citizens' right to know.—

232 (3)

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233 (b) The register must be updated monthly ~~weekly~~ and display
234 accurate data regarding the following information:

235 1. The name, location, and funding source of the pretrial
236 release program.

237 2. The number of defendants assessed and interviewed for
238 pretrial release.

239 3. The number of indigent defendants assessed and
240 interviewed for pretrial release.

241 4. The names and number of defendants accepted into the
242 pretrial release program.

243 5. The names and number of indigent defendants accepted
244 into the pretrial release program.

245 6. The charges filed against and the case numbers of
246 defendants accepted into the pretrial release program.

247 7. The nature of any prior criminal conviction of a
248 defendant accepted into the pretrial release program.

249 8. The court appearances required of defendants accepted
250 into the pretrial release program.

251 9. The date of each defendant's failure to appear for a
252 scheduled court appearance.

253 10. The number of warrants, if any, which have been issued
254 for a defendant's arrest for failing to appear at a scheduled
255 court appearance.

256 11. The number and type of program noncompliance
257 infractions committed by a defendant in the pretrial release
258 program and whether the pretrial release program recommended
259 that the court revoke the defendant's release.

260 Section 6. Subsections (2) and (3) of section 921.187,
261 Florida Statutes, are amended to read:

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262 921.187 Disposition and sentencing; alternatives;
263 restitution.-

264 ~~(2) In addition to any other penalty provided by law for an~~
265 ~~offense enumerated in s. 775.0877(1)(a)-(n), if the offender is~~
266 ~~convicted of criminal transmission of HIV pursuant to s.~~
267 ~~775.0877, the court may sentence the offender to criminal~~
268 ~~quarantine community control as described in s. 948.001.~~

269 (2)(3) The court shall require an offender to make
270 restitution under s. 775.089, unless the court finds clear and
271 compelling reasons not to order such restitution. If the court
272 does not order restitution, or orders restitution of only a
273 portion of the damages, as provided in s. 775.089, the court
274 shall state the reasons on the record in detail. An order
275 requiring an offender to make restitution to a victim under s.
276 775.089 does not remove or diminish the requirement that the
277 court order payment to the Crimes Compensation Trust Fund under
278 chapter 960.

279 Section 7. Section 940.061, Florida Statutes, is amended to
280 read:

281 940.061 Informing persons about executive clemency and
282 restoration of civil rights.-The Department of Corrections shall
283 inform and educate inmates and offenders on community
284 supervision about the restoration of civil rights. Each month
285 the Department of Corrections shall send to the Parole
286 Commission an electronic list containing the names of inmates
287 who have been released from incarceration, and offenders who
288 have been terminated from supervision, and who may be eligible
289 ~~and assist eligible inmates and offenders on community~~
290 ~~supervision with the completion of the application for the~~

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291 restoration of civil rights.

292 Section 8. Section 944.293, Florida Statutes, is repealed.

293 Section 9. Paragraph (b) of subsection (3) of section
294 944.35, Florida Statutes, is amended to read:

295 944.35 Authorized use of force; malicious battery and
296 sexual misconduct prohibited; reporting required; penalties.—

297 (3)

298 (b)1. As used in this paragraph, the term "sexual
299 misconduct" means the oral, anal, or vaginal penetration by, or
300 union with, the sexual organ of another or the anal or vaginal
301 penetration of another by any other object, but does not include
302 an act done for a bona fide medical purpose or an internal
303 search conducted in the lawful performance of the employee's
304 duty.

305 2. Any employee of the department or a private correctional
306 facility, as defined in s. 944.710, who engages in sexual
307 misconduct with an inmate or an offender supervised by the
308 department in the community, without committing the crime of
309 sexual battery, commits a felony of the third degree, punishable
310 as provided in s. 775.082, s. 775.083, or s. 775.084.

311 3. The consent of the inmate or offender supervised by the
312 department in the community to any act of sexual misconduct may
313 not be raised as a defense to a prosecution under this
314 paragraph.

315 4. This paragraph does not apply to any employee of the
316 department or any employee of a private correctional facility
317 who is legally married to an inmate or an offender supervised by
318 the department in the community, nor does it apply to any
319 employee who has no knowledge, and would have no reason to

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320 believe, that the person with whom the employee has engaged in
321 sexual misconduct is an inmate or an offender under community
322 supervision of the department.

323 Section 10. Subsection (3) of section 944.605, Florida
324 Statutes, is amended to read:

325 944.605 Inmate release; notification.—

326 (3) (a) If an inmate is to be released after having served
327 one or more sentences for a conviction of robbery, sexual
328 battery, home-invasion robbery, or carjacking, or an inmate to
329 be released has a prior conviction for robbery, sexual battery,
330 home-invasion robbery, or carjacking or similar offense, in this
331 state or in another jurisdiction, and if such prior conviction
332 information is contained in department records, the department
333 shall release to the sheriff of the county in which the inmate
334 plans to reside, and, if the inmate plans to reside within a
335 municipality, to the chief of police of that municipality, the
336 following information, which must include, but need not be
337 limited to:

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

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

340 3. ~~(c)~~ Date of birth;

341 4. ~~(d)~~ Race;

342 5. ~~(e)~~ Sex;

343 6. ~~(f)~~ Height;

344 7. ~~(g)~~ Weight;

345 8. ~~(h)~~ Hair and eye color;

346 9. ~~(i)~~ Tattoos or other identifying marks;

347 10. ~~(j)~~ Fingerprints; and

348 11. ~~(k)~~ A digitized photograph as provided in subsection

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349 (2).

350
351 The department shall release the information specified in this
352 paragraph ~~subsection~~ within 6 months prior to the discharge of
353 the inmate from the custody of the department.

354 (b) The department may electronically submit the
355 information listed in paragraph (a) to the sheriff of the county
356 in which the inmate plans to reside, and, if the inmate plans to
357 reside within a municipality, to the chief of police of that
358 municipality.

359 Section 11. Section 944.804, Florida Statutes, is amended
360 to read:

361 944.804 Elderly offenders correctional facilities program
362 of 2000.—

363 (1) The Legislature finds that the number and percentage of
364 elderly offenders in the Florida prison system is increasing and
365 will continue to increase for the foreseeable future. The
366 current cost to incarcerate elderly offenders is approximately
367 three times the cost of incarceration of younger inmates.

368 Alternatives to the current approaches to housing, programming,
369 and treating the medical needs of elderly offenders, which may
370 reduce the overall costs associated with this segment of the
371 prison population, must be explored and implemented.

372 (2) The department shall establish and operate ~~a~~ geriatric
373 facilities or geriatric dorms within a facility at the site
374 ~~known as River Junction Correctional Institution, which shall be~~
375 ~~an institution specifically~~ for generally healthy elderly
376 offenders who can perform general work appropriate for their
377 physical and mental condition. ~~Prior to reopening the facility,~~

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378 ~~the department shall make modifications to the facility which~~
379 ~~will ensure its compliance with the Americans with Disabilities~~
380 ~~Act and decrease the likelihood of falls, accidental injury, and~~
381 ~~other conditions known to be particularly hazardous to the~~
382 ~~elderly.~~

383 (a) In order to decrease long-term medical costs to the
384 state, a preventive fitness/wellness program and diet
385 specifically designed to maintain the mental and physical health
386 of elderly offenders shall be developed and implemented. In
387 developing the program, the department shall give consideration
388 to preventive medical care for the elderly which shall include,
389 but not be limited to, maintenance of bone density, all aspects
390 of cardiovascular health, lung capacity, mental alertness, and
391 orientation. Existing policies and procedures shall be
392 reexamined and altered to encourage offenders to adopt a more
393 healthy lifestyle and maximize their level of functioning. The
394 program components shall be modified as data and experience are
395 received which measure the relative success of the program
396 components previously implemented.

397 (b) Consideration must be given to redirecting resources as
398 a method of offsetting increased medical costs. Elderly
399 offenders are not likely to reenter society as a part of the
400 workforce, and programming resources would be better spent in
401 activities to keep the elderly offenders healthy, alert, and
402 oriented. Limited or restricted programming or activities for
403 elderly offenders will increase the daily cost of institutional
404 and health care, and programming opportunities adequate to
405 reduce the cost of care will be provided. Programming shall
406 include, but not be limited to, recreation, education, and

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407 counseling which is needs-specific to elderly offenders.
408 Institutional staff shall be specifically trained to effectively
409 supervise elderly offenders and to detect physical or mental
410 changes which warrant medical attention before more serious
411 problems develop.

412 (3) The department shall adopt rules that specify which
413 elderly offenders shall be eligible to be housed at the
414 geriatric correctional facilities or dorms River Junction
415 Correctional Institution.

416 (4) While developing the criteria for eligibility, the
417 department shall use the information in existing offender
418 databases to determine the number of offenders who would be
419 eligible. The Legislature directs the department to consider a
420 broad range of elderly offenders for the department's geriatric
421 facilities or dorms River Junction Correctional Institution who
422 have good disciplinary records and a medical grade that will
423 permit them to perform meaningful work activities, including
424 participation in an appropriate correctional work program
425 (PRIDE) facility, if available.

426 (5) The department shall also submit a study based on
427 existing offenders which projects the number of existing
428 offenders who will qualify under the rules. An appendix to the
429 study shall identify the specific offenders who qualify.

430 Section 12. Section 944.8041, Florida Statutes, is amended
431 to read:

432 944.8041 Elderly offenders; annual review.—For the purpose
433 of providing information to the Legislature on elderly offenders
434 within the correctional system, the department and the
435 Correctional Medical Authority shall each submit annually a

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436 report on the status and treatment of elderly offenders in the
437 state-administered and private state correctional systems and
438 ~~as well as such information on the department's geriatric~~
439 facilities and dorms River Junction Correctional Institution. In
440 order to adequately prepare the reports, the department and the
441 Department of Management Services shall grant access to the
442 Correctional Medical Authority which includes access to the
443 facilities, offenders, and any information the agencies require
444 to complete their reports. The review shall also include an
445 examination of promising geriatric policies, practices, and
446 programs currently implemented in other correctional systems
447 within the United States. The reports, with specific findings
448 and recommendations for implementation, shall be submitted to
449 the President of the Senate and the Speaker of the House of
450 Representatives on or before December 31 of each year.

451 Section 13. Subsections (4) and (5) of section 945.41,
452 Florida Statutes, are amended to read:

453 945.41 Legislative intent of ss. 945.40-945.49.—It is the
454 intent of the Legislature that mentally ill inmates in the
455 custody of the Department of Corrections receive evaluation and
456 appropriate treatment for their mental illness through a
457 continuum of services. It is further the intent of the
458 Legislature that:

459 (4) Any inmate sentenced as a youthful offender, or
460 designated as a youthful offender by the department under
461 ~~pursuant to~~ chapter 958, who is transferred pursuant to this act
462 to a mental health treatment facility be separated from other
463 inmates, if necessary, as determined by the warden of the
464 treatment facility. ~~In no case shall any youthful offender be~~

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465 ~~placed at the Florida State Prison or the Union Correctional~~
466 ~~Institution for mental health treatment.~~

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

471 Section 14. Subsections (5) and (6) of section 945.42,
472 Florida Statutes, are amended to read:

473 945.42 Definitions; ss. 945.40-945.49.—As used in ss.
474 945.40-945.49, the following terms shall have the meanings
475 ascribed to them, unless the context shall clearly indicate
476 otherwise:

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

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

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

492 (b)1. ~~The inmate has refused voluntary placement for~~
493 ~~treatment at a mental health treatment facility after sufficient~~

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494 ~~and conscientious explanation and disclosure of the purpose of~~
495 ~~placement; or~~

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

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

501 (6) "In need of care and treatment" means that an inmate
502 has a mental illness for which inpatient services in a mental
503 health treatment facility are necessary and that, but for being
504 isolated in a more restrictive and secure housing environment,
505 because of the mental illness:

506 (a)1. The inmate is demonstrating a refusal to care for
507 himself or herself and without treatment is likely to continue
508 to refuse to care for himself or herself, and such refusal poses
509 a real and present threat of substantial harm to his or her
510 well-being; or

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

515 ~~(b)1. The inmate has refused voluntary placement for~~
516 ~~treatment at a mental health treatment facility after sufficient~~
517 ~~and conscientious explanation and disclosure of the purpose of~~
518 ~~placement; or~~

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

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

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523 condition have been clinically determined to be inappropriate.

524 Section 15. Section 945.43, Florida Statutes, is amended to
525 read:

526 945.43 Placement ~~Admission~~ of inmate in a ~~to~~ mental health
527 treatment facility.—

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

531 (2) PROCEDURE FOR PLACEMENT IN A MENTAL HEALTH TREATMENT
532 FACILITY.—

533 (a) An inmate may be placed in ~~admitted to~~ a mental health
534 treatment facility after notice and hearing, upon the
535 recommendation of the warden of the facility where the inmate is
536 confined. The recommendation shall be entered on a petition and
537 must be supported by the expert opinion of a psychiatrist and
538 the second opinion of a psychiatrist or psychological
539 professional. The petition shall be filed with the court in the
540 county where the inmate is located.

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

545 (c) The petition for placement shall ~~may~~ be filed in the
546 county in which the inmate is located. The hearing shall be held
547 in the same county, and one of the inmate's physicians at the
548 facility where the inmate is located shall appear as a witness
549 at the hearing.

550 (d) An attorney representing the inmate shall have access
551 to the inmate and any records, including medical or mental

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552 health records, which are relevant to the representation of the
553 inmate.

554 (e) If the court finds that the inmate is mentally ill and
555 in need of care and treatment, as defined in s. 945.42, the
556 court shall order that he or she be placed in a mental health
557 treatment facility or, if the inmate is at a mental health
558 treatment facility, that he or she be retained there. The court
559 shall authorize the mental health treatment facility to retain
560 the inmate for up to 6 months. If, at the end of that time,
561 continued placement is necessary, the warden shall apply to the
562 Division of Administrative Hearings in accordance with s. 945.45
563 for an order authorizing continued placement.

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

566 (a) The court shall serve notice on the warden of the
567 facility where the inmate is confined and the allegedly mentally
568 ill inmate. The notice must specify the date, time, and place of
569 the hearing; the basis for the allegation of mental illness; and
570 the names of the examining experts. The hearing shall be held
571 within 5 days, and the court may appoint a general or special
572 magistrate to preside. The court may waive the presence of the
573 inmate at the hearing if the ~~such~~ waiver is consistent with the
574 best interests of the inmate and the inmate's counsel does not
575 object. The department may transport the inmate to the location
576 of the hearing if the hearing is not conducted at the facility
577 or by electronic means. The hearing may be as informal as is
578 consistent with orderly procedure. One of the experts whose
579 opinion supported the petition for placement shall be present at
580 the hearing for information purposes.

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581 (b) If, at the hearing, the court finds that the inmate is
582 mentally ill and in need of care and treatment, as defined in s.
583 945.42, the court shall order that he or she be placed in a
584 mental health treatment facility. The court shall provide a copy
585 of its order authorizing placement and all supporting
586 documentation relating to the inmate's condition to the warden
587 of the treatment facility. If the court finds that the inmate is
588 not mentally ill, it shall dismiss the petition for placement.

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

594 Section 16. Section 945.46, Florida Statutes, is amended to
595 read:

596 945.46 Initiation of involuntary placement proceedings with
597 respect to a mentally ill inmate scheduled for release.—

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

604 (2) In addition, the warden may initiate procedures for
605 involuntary examination pursuant to s. 394.463 for any inmate
606 who has a mental illness and meets the criteria of s.
607 394.463(1).

608 (3) The department may transport an individual who is being
609 released from its custody to a receiving or treatment facility

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610 for involuntary examination or placement. Such transport shall
611 be made to a facility that is specified by the Department of
612 Children and Family Services as able to meet the specific needs
613 of the individual. If the Department of Children and Family
614 Services does not specify a facility, transport may be made to
615 the nearest receiving facility.

616 Section 17. Section 946.42, Florida Statutes, is created to
617 read:

618 946.42 Use of inmates on private property.-

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

622 (a) To accept and collect donations for the use and benefit
623 of the department.

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

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

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

631 (b) "Donations" means gifts of tangible personal property
632 and includes equipment, fixtures, construction materials, food
633 items, and other tangible personal property of a consumable and
634 nonconsumable nature.

635 (c) "Emergency" means any occurrence or threat of an
636 occurrence, whether natural, technological, or manmade, in war
637 or in peace, which results or may result in substantial injury
638 or harm to the population or substantial damage to or loss of

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639 property.

640 Section 18. Subsection (3) of section 948.001, Florida
641 Statutes, is repealed.

642 Section 19. Subsection (1) of section 948.03, Florida
643 Statutes, is amended to read:

644 948.03 Terms and conditions of probation.—

645 (1) The court shall determine the terms and conditions of
646 probation. Conditions specified in this section do not require
647 oral pronouncement at the time of sentencing and may be
648 considered standard conditions of probation. These conditions
649 may include among them the following, that the probationer or
650 offender in community control shall:

651 (a) Report to the probation and parole supervisors as
652 directed.

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

655 (c) Work faithfully at suitable employment insofar as may
656 be possible.

657 (d) Remain within a specified place.

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

662 (f) ~~(e)~~ Make reparation or restitution to the aggrieved
663 party for the damage or loss caused by his or her offense in an
664 amount to be determined by the court. The court shall make such
665 reparation or restitution a condition of probation, unless it
666 determines that clear and compelling reasons exist to the
667 contrary. If the court does not order restitution, or orders

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668 restitution of only a portion of the damages, as provided in s.
669 775.089, it shall state on the record in detail the reasons
670 therefor.

671 (g)~~(f)~~ Effective July 1, 1994, and applicable for offenses
672 committed on or after that date, make payment of the debt due
673 and owing to a county or municipal detention facility under s.
674 951.032 for medical care, treatment, hospitalization, or
675 transportation received by the felony probationer while in that
676 detention facility. The court, in determining whether to order
677 such repayment and the amount of the ~~such~~ repayment, shall
678 consider the amount of the debt, whether there was any fault of
679 the institution for the medical expenses incurred, the financial
680 resources of the felony probationer, the present and potential
681 future financial needs and earning ability of the probationer,
682 and dependents, and other appropriate factors.

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

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

688 (j)~~(i)~~ Pay any application fee assessed under s.
689 27.52(1)(b) and attorney's fees and costs assessed under s.
690 938.29, subject to modification based on change of
691 circumstances.

692 (k)~~(j)~~ Not associate with persons engaged in criminal
693 activities.

694 (l)~~(k)~~ 1. Submit to random testing as directed by the
695 correctional probation officer or the professional staff of the
696 treatment center where he or she is receiving treatment to

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697 determine the presence or use of alcohol or controlled
698 substances.

699 2. If the offense was a controlled substance violation and
700 the period of probation immediately follows a period of
701 incarceration in the state correction system, the conditions
702 shall include a requirement that the offender submit to random
703 substance abuse testing intermittently throughout the term of
704 supervision, upon the direction of the correctional probation
705 officer as defined in s. 943.10(3).

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

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

715 (o)~~(n)~~ Submit to the drawing of blood or other biological
716 specimens as prescribed in ss. 943.325 and 948.014, and
717 reimburse the appropriate agency for the costs of drawing and
718 transmitting the blood or other biological specimens to the
719 Department of Law Enforcement.

720 (p) Submit to the taking of a digitized photograph by the
721 department as a part of the offender's records. This photograph
722 may be displayed on the department's public website while the
723 offender is under court-ordered supervision. However, this
724 paragraph does not apply to an offender who is on pretrial
725 intervention supervision or an offender whose identity is exempt

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726 from disclosure due to an exemption from the requirements of s.
727 119.07.

728 Section 20. Subsection (7) of section 948.09, Florida
729 Statutes, is amended to read:

730 948.09 Payment for cost of supervision and rehabilitation.—

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

738 Section 21. Section 948.101, Florida Statutes, is amended
739 to read:

740 948.101 Terms and conditions of community control ~~and~~
741 ~~criminal quarantine community control~~.—

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

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

749 (a)1. Specified contact with the parole and probation
750 officer.

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

753 (c)3. Mandatory public service.

754 (d)4. Supervision by the Department of Corrections by means

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755 of an electronic monitoring device or system.

756 (e)~~5~~. The standard conditions of probation set forth in s.
757 948.03.

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

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

761 ~~2. Confinement to a designated residence during designated~~
762 ~~hours.~~

763 (2) The enumeration of specific kinds of terms and
764 conditions does not prevent the court from adding ~~thereto~~ any
765 other terms or conditions that the court considers proper.
766 However, the sentencing court may only impose a condition of
767 supervision allowing an offender convicted of s. 794.011, s.
768 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in
769 another state if the order stipulates that it is contingent upon
770 the approval of the receiving state interstate compact
771 authority. The court may rescind or modify at any time the terms
772 and conditions theretofore imposed by it upon the offender in
773 community control. However, if the court withholds adjudication
774 of guilt or imposes a period of incarceration as a condition of
775 community control, the period may not exceed 364 days, and
776 incarceration shall be restricted to a county facility, a
777 probation and restitution center under the jurisdiction of the
778 Department of Corrections, a probation program drug punishment
779 phase I secure residential treatment institution, or a community
780 residential facility owned or operated by any entity providing
781 such services.

782 ~~(3) The court may place a defendant who is being sentenced~~
783 ~~for criminal transmission of HIV in violation of s. 775.0877 on~~

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784 ~~eriminal quarantine community control. The Department of~~
785 ~~Corrections shall develop and administer a criminal quarantine~~
786 ~~community control program emphasizing intensive supervision with~~
787 ~~24-hour per day electronic monitoring. Criminal quarantine~~
788 ~~community control status must include surveillance and may~~
789 ~~include other measures normally associated with community~~
790 ~~control, except that specific conditions necessary to monitor~~
791 ~~this population may be ordered.~~

792 Section 22. Subsection (1) of section 948.11, Florida
793 Statutes, is amended to read:

794 948.11 Electronic monitoring devices.-

795 (1)~~(a)~~ The Department of Corrections may, at its
796 discretion, electronically monitor an offender sentenced to
797 community control.

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

801 Section 23. Present subsection (4) of section 951.26,
802 Florida Statutes, is renumbered as subsection (5), and a new
803 subsection (4) is added to that section, to read:

804 951.26 Public safety coordinating councils.-

805 (4) The council may also develop a comprehensive local
806 reentry plan that is designed to assist offenders released from
807 incarceration to successfully reenter the community. The plan
808 should cover at least a 5-year period. In developing the plan,
809 the council shall coordinate with public safety officials and
810 local community organizations who can provide offenders with
811 reentry services, such as assistance with housing, health care,
812 education, substance abuse treatment, and employment.

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Section 24. This act shall take effect July 1, 2010.