

By the Committees on Judiciary; Children, Families, and Elder Affairs; and Criminal Justice; and Senator Dockery

590-04809-10

2010960c3

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,

590-04809-10

2010960c3

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

590-04809-10

2010960c3

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 prohibiting a probationer from possessing, carrying,
66 or owning a firearm; requiring consent of the
67 correctional probation officer for possession of a
68 weapon other than a firearm; requiring that a
69 digitized photograph of an offender be part of the
70 offender's record; authorizing the department to
71 display such photographs on its website for a
72 specified period; providing certain exceptions;
73 amending s. 948.09, F.S.; conforming a cross-
74 reference; amending ss. 948.101 and 948.11, F.S.;
75 revising terms and conditions of community control and
76 deleting provisions related to criminal quarantine
77 community control; amending s. 951.26, F.S.;
78 authorizing each local public safety coordinating
79 council to develop a comprehensive local reentry plan
80 for offenders reentering the community; providing an
81 effective date.

82
83 Be It Enacted by the Legislature of the State of Florida:

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

87 384.34 Penalties.—

590-04809-10

2010960c3

88 (5) Any person who violates the provisions of s. 384.24(2)
89 commits a felony of the third degree, punishable as provided in
90 s. 775.082, s. 775.083, or s. 775.084 ~~ss. 775.082, 775.083,~~
91 ~~775.084, and 775.0877(7)~~. Any person who commits multiple
92 violations of the provisions of s. 384.24(2) commits a felony of
93 the first degree, punishable as provided in s. 775.082, s.
94 775.083, or s. 775.084 ~~ss. 775.082, 775.083, 775.084, and~~
95 ~~775.0877(7)~~.

96 Section 2. Section 775.0877, Florida Statutes, is amended
97 to read:

98 775.0877 Criminal transmission of HIV; procedures;
99 penalties.—

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

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

106 (b) Section 826.04, relating to incest,

107 (c) Section 800.04(1), (2), and (3), relating to lewd,
108 lascivious, or indecent assault or act upon any person less than
109 16 years of age,

110 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
111 relating to assault,

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

114 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
115 relating to battery,

116 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),

590-04809-10

2010960c3

117 relating to aggravated battery,

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

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

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

122 (k) Section 825.102(2), relating to aggravated abuse of an
123 elderly person or disabled adult,

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

126 (m) Sections 796.03, 796.07, and 796.08, relating to
127 prostitution, or

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

130

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

143 (2) The results of the HIV test must be disclosed under the
144 direction of the Department of Health, to the offender who has
145 been convicted of or pled nolo contendere or guilty to an

590-04809-10

2010960c3

146 offense specified in subsection (1), the public health agency of
147 the county in which the conviction occurred and, if different,
148 the county of residence of the offender, and, upon request
149 pursuant to s. 960.003, to the victim or the victim's legal
150 guardian, or the parent or legal guardian of the victim if the
151 victim is a minor.

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

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

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

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

590-04809-10

2010960c3

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

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

182 796.08 Screening for HIV and sexually transmissible
183 diseases; providing penalties.-

184 (5) A person who:

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

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

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

200 Section 4. Section 800.09, Florida Statutes, is created to
201 read:

202 800.09 Lewd or lascivious exhibition in the presence of an
203 employee.-

590-04809-10

2010960c3

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

205 (a) "Facility" means a state correctional institution, as
206 defined in s. 944.02, or a private correctional facility, as
207 defined in s. 944.710.

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

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

216 1. Intentionally masturbate;

217 2. Intentionally expose the genitals in a lewd or
218 lascivious manner; or

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

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

227 (b) A person who violates paragraph (a) commits lewd or
228 lascivious exhibition in the presence of an employee, a felony
229 of the third degree, punishable as provided in s. 775.082, s.
230 775.083, or s. 775.084.

231 Section 5. Paragraph (b) of subsection (3) of section
232 907.043, Florida Statutes, is amended to read:

590-04809-10

2010960c3

- 233 907.043 Pretrial release; citizens' right to know.—
234 (3)
235 (b) The register must be updated monthly ~~weekly~~ and display
236 accurate data regarding the following information:
237 1. The name, location, and funding source of the pretrial
238 release program.
239 2. The number of defendants assessed and interviewed for
240 pretrial release.
241 3. The number of indigent defendants assessed and
242 interviewed for pretrial release.
243 4. The names and number of defendants accepted into the
244 pretrial release program.
245 5. The names and number of indigent defendants accepted
246 into the pretrial release program.
247 6. The charges filed against and the case numbers of
248 defendants accepted into the pretrial release program.
249 7. The nature of any prior criminal conviction of a
250 defendant accepted into the pretrial release program.
251 8. The court appearances required of defendants accepted
252 into the pretrial release program.
253 9. The date of each defendant's failure to appear for a
254 scheduled court appearance.
255 10. The number of warrants, if any, which have been issued
256 for a defendant's arrest for failing to appear at a scheduled
257 court appearance.
258 11. The number and type of program noncompliance
259 infractions committed by a defendant in the pretrial release
260 program and whether the pretrial release program recommended
261 that the court revoke the defendant's release.

590-04809-10

2010960c3

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

264 921.187 Disposition and sentencing; alternatives;
265 restitution.—

266 ~~(2) In addition to any other penalty provided by law for an~~
267 ~~offense enumerated in s. 775.0877(1)(a)–(n), if the offender is~~
268 ~~convicted of criminal transmission of HIV pursuant to s.~~
269 ~~775.0877, the court may sentence the offender to criminal~~
270 ~~quarantine community control as described in s. 948.001.~~

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

281 Section 7. Section 940.061, Florida Statutes, is amended to
282 read:

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

590-04809-10

2010960c3

291 ~~and assist eligible inmates and offenders on community~~
292 ~~supervision with the completion of the application for the~~
293 restoration of civil rights.

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

295 Section 9. Paragraph (b) of subsection (3) of section
296 944.35, Florida Statutes, is amended to read:

297 944.35 Authorized use of force; malicious battery and
298 sexual misconduct prohibited; reporting required; penalties.—

299 (3)

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

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

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

317 4. This paragraph does not apply to any employee of the
318 department or any employee of a private correctional facility
319 who is legally married to an inmate or an offender supervised by

590-04809-10

2010960c3

320 the department in the community, nor does it apply to any
321 employee who has no knowledge, and would have no reason to
322 believe, that the person with whom the employee has engaged in
323 sexual misconduct is an inmate or an offender under community
324 supervision of the department.

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

327 944.605 Inmate release; notification.-

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

- 340 1. ~~(a)~~ Name;
- 341 2. ~~(b)~~ Social security number;
- 342 3. ~~(c)~~ Date of birth;
- 343 4. ~~(d)~~ Race;
- 344 5. ~~(e)~~ Sex;
- 345 6. ~~(f)~~ Height;
- 346 7. ~~(g)~~ Weight;
- 347 8. ~~(h)~~ Hair and eye color;
- 348 9. ~~(i)~~ Tattoos or other identifying marks;

590-04809-10

2010960c3

349 ~~10.(j)~~ Fingerprints; and
350 ~~11.(k)~~ A digitized photograph as provided in subsection
351 (2).

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

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

361 Section 11. Section 944.804, Florida Statutes, is amended
362 to read:

363 944.804 Elderly offenders correctional facilities program
364 of 2000.—

365 (1) The Legislature finds that the number and percentage of
366 elderly offenders in the Florida prison system is increasing and
367 will continue to increase for the foreseeable future. The
368 current cost to incarcerate elderly offenders is approximately
369 three times the cost of incarceration of younger inmates.
370 Alternatives to the current approaches to housing, programming,
371 and treating the medical needs of elderly offenders, which may
372 reduce the overall costs associated with this segment of the
373 prison population, must be explored and implemented.

374 (2) The department shall establish and operate ~~a~~ geriatric
375 facilities or geriatric dorms within a facility at the site
376 ~~known as River Junction Correctional Institution, which shall be~~
377 ~~an institution specifically~~ for generally healthy elderly

590-04809-10

2010960c3

378 offenders who can perform general work appropriate for their
379 physical and mental condition. ~~Prior to reopening the facility,~~
380 ~~the department shall make modifications to the facility which~~
381 ~~will ensure its compliance with the Americans with Disabilities~~
382 ~~Act and decrease the likelihood of falls, accidental injury, and~~
383 ~~other conditions known to be particularly hazardous to the~~
384 ~~elderly.~~

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

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

590-04809-10

2010960c3

407 reduce the cost of care will be provided. Programming shall
408 include, but not be limited to, recreation, education, and
409 counseling which is needs-specific to elderly offenders.
410 Institutional staff shall be specifically trained to effectively
411 supervise elderly offenders and to detect physical or mental
412 changes which warrant medical attention before more serious
413 problems develop.

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

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

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

432 Section 12. Section 944.8041, Florida Statutes, is amended
433 to read:

434 944.8041 Elderly offenders; annual review.—For the purpose
435 of providing information to the Legislature on elderly offenders

590-04809-10

2010960c3

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

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

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

461 (4) Any inmate sentenced as a youthful offender, or
462 designated as a youthful offender by the department under
463 ~~pursuant to~~ chapter 958, who is transferred pursuant to this act
464 to a mental health treatment facility be separated from other

590-04809-10

2010960c3

465 inmates, if necessary, as determined by the warden of the
466 treatment facility. ~~In no case shall any youthful offender be~~
467 ~~placed at the Florida State Prison or the Union Correctional~~
468 ~~Institution for mental health treatment.~~

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

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

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

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

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

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

590-04809-10

2010960c3

494 ~~(b)1. The inmate has refused voluntary placement for~~
495 ~~treatment at a mental health treatment facility after sufficient~~
496 ~~and conscientious explanation and disclosure of the purpose of~~
497 ~~placement; or~~

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

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

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

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

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

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

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

590-04809-10

2010960c3

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

526 Section 15. Section 945.43, Florida Statutes, is amended to
527 read:

528 945.43 Placement ~~Admission~~ of inmate in a ~~to~~ mental health
529 treatment facility.—

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

533 (2) PROCEDURE FOR PLACEMENT IN A MENTAL HEALTH TREATMENT
534 FACILITY.—

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

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

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

590-04809-10

2010960c3

552 (d) An attorney representing the inmate shall have access
553 to the inmate and any records, including medical or mental
554 health records, which are relevant to the representation of the
555 inmate.

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

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

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

590-04809-10

2010960c3

581 opinion supported the petition for placement shall be present at
582 the hearing for information purposes.

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

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

596 Section 16. Section 945.46, Florida Statutes, is amended to
597 read:

598 945.46 Initiation of involuntary placement proceedings with
599 respect to a mentally ill inmate scheduled for release.—

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

606 (2) In addition, the warden may initiate procedures for
607 involuntary examination pursuant to s. 394.463 for any inmate
608 who has a mental illness and meets the criteria of s.
609 394.463(1).

590-04809-10

2010960c3

610 (3) The department may transport an individual who is being
611 released from its custody to a receiving or treatment facility
612 for involuntary examination or placement. Such transport shall
613 be made to a facility that is specified by the Department of
614 Children and Family Services as able to meet the specific needs
615 of the individual. If the Department of Children and Family
616 Services does not specify a facility, transport may be made to
617 the nearest receiving facility.

618 Section 17. Section 946.42, Florida Statutes, is created to
619 read:

620 946.42 Use of inmates on private property.-

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

624 (a) To accept and collect donations for the use and benefit
625 of the department.

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

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

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

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

637 (c) "Emergency" means any occurrence or threat of an
638 occurrence, whether natural, technological, or manmade, in war

590-04809-10

2010960c3

639 or in peace, which results or may result in substantial injury
640 or harm to the population or substantial damage to or loss of
641 property.

642 Section 18. Subsection (3) of section 948.001, Florida
643 Statutes, is repealed.

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

646 948.03 Terms and conditions of probation.—

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

653 (a) Report to the probation and parole supervisors as
654 directed.

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

657 (c) Work faithfully at suitable employment insofar as may
658 be possible.

659 (d) Remain within a specified place.

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

664 (f) ~~(e)~~ Make reparation or restitution to the aggrieved
665 party for the damage or loss caused by his or her offense in an
666 amount to be determined by the court. The court shall make such
667 reparation or restitution a condition of probation, unless it

590-04809-10

2010960c3

668 determines that clear and compelling reasons exist to the
669 contrary. If the court does not order restitution, or orders
670 restitution of only a portion of the damages, as provided in s.
671 775.089, it shall state on the record in detail the reasons
672 therefor.

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

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

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

690 (j)~~(i)~~ Pay any application fee assessed under s.
691 27.52(1)(b) and attorney's fees and costs assessed under s.
692 938.29, subject to modification based on change of
693 circumstances.

694 (k)~~(j)~~ Not associate with persons engaged in criminal
695 activities.

696 (l)~~(k)~~ 1. Submit to random testing as directed by the

590-04809-10

2010960c3

697 correctional probation officer or the professional staff of the
698 treatment center where he or she is receiving treatment to
699 determine the presence or use of alcohol or controlled
700 substances.

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

708 (m)~~(l)~~ Be prohibited from possessing, carrying, or owning
709 any:

710 1. Firearm unless authorized by the court and consented to
711 by the probation officer.

712 2. Weapon without first procuring the consent of the
713 correctional probation officer.

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

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

724 (p) Submit to the taking of a digitized photograph by the
725 department as a part of the offender's records. This photograph

590-04809-10

2010960c3

726 may be displayed on the department's public website while the
727 offender is under court-ordered supervision. However, the
728 department may not display the photograph on the website if the
729 offender is only on pretrial intervention supervision or is an
730 offender whose identity is exempt from disclosure due to an
731 exemption from the requirements of s. 119.07.

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

734 948.09 Payment for cost of supervision and rehabilitation.—

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

742 Section 21. Section 948.101, Florida Statutes, is amended
743 to read:

744 948.101 Terms and conditions of community control ~~and~~
745 ~~criminal quarantine community control~~.—

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

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

753 (a)1. Specified contact with the parole and probation
754 officer.

590-04809-10

2010960c3

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

757 (c)3. Mandatory public service.

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

760 (e)5. The standard conditions of probation set forth in s.
761 948.03.

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

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

765 ~~2. Confinement to a designated residence during designated~~
766 ~~hours.~~

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

590-04809-10

2010960c3

784 residential facility owned or operated by any entity providing
785 such services.

786 ~~(3) The court may place a defendant who is being sentenced~~
787 ~~for criminal transmission of HIV in violation of s. 775.0877 on~~
788 ~~criminal quarantine community control. The Department of~~
789 ~~Corrections shall develop and administer a criminal quarantine~~
790 ~~community control program emphasizing intensive supervision with~~
791 ~~24-hour-per-day electronic monitoring. Criminal quarantine~~
792 ~~community control status must include surveillance and may~~
793 ~~include other measures normally associated with community~~
794 ~~control, except that specific conditions necessary to monitor~~
795 ~~this population may be ordered.~~

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

798 948.11 Electronic monitoring devices.-

799 (1)~~(a)~~ The Department of Corrections may, at its
800 discretion, electronically monitor an offender sentenced to
801 community control.

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

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

808 951.26 Public safety coordinating councils.-

809 (4) The council may also develop a comprehensive local
810 reentry plan that is designed to assist offenders released from
811 incarceration to successfully reenter the community. The plan
812 should cover at least a 5-year period. In developing the plan,

590-04809-10

2010960c3

813 the council shall coordinate with public safety officials and
814 local community organizations who can provide offenders with
815 reentry services, such as assistance with housing, health care,
816 education, substance abuse treatment, and employment.

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