



580086

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: AD/CR

.

05/06/2011 08:59 PM

.

.

The Conference Committee on SB 2118 recommended the following:

1 **Senate Conference Committee Amendment (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 938.25, Florida Statutes, is
7 transferred, renumbered as section 938.055, Florida Statutes,
8 and amended to read:

9 938.055 ~~938.25~~ Operating Trust Fund of the Department of
10 Law Enforcement.—Notwithstanding any provision to the contrary
11 of the laws of this state, the court shall ~~may~~ assess any
12 defendant who pleads guilty or nolo contendere to, or is
13 convicted of, a violation of any provision of chapters 775-896



580086

14 ~~s. 893.13~~, without regard to whether adjudication was withheld,
15 in addition to any fine and other penalty provided or authorized
16 by law, an amount of \$100, to be paid to the clerk of the court,
17 who shall forward it to the Department of Revenue for deposit in
18 the Operating Trust Fund of the Department of Law Enforcement to
19 be used by the statewide criminal analysis laboratory system for
20 the purposes specified in s. 943.361. This amount shall be
21 assessed when the services of any criminal analysis laboratory,
22 as designated in s. 943.32, is used in connection with the
23 investigation or prosecution of a violation of any provision of
24 chapters 775-896. The court may not waive this assessment ~~is~~
25 ~~authorized to order a defendant to pay an additional assessment~~
26 ~~if it finds that the defendant has the ability to pay the fine~~
27 ~~and the additional assessment and will not be prevented thereby~~
28 ~~from being rehabilitated or from making restitution.~~

29 Section 2. Paragraph (1) of subsection (1) of section
30 921.187, Florida Statutes, is amended to read:

31 921.187 Disposition and sentencing; alternatives;
32 restitution.-

33 (1) The alternatives provided in this section for the
34 disposition of criminal cases shall be used in a manner that
35 will best serve the needs of society, punish criminal offenders,
36 and provide the opportunity for rehabilitation. If the offender
37 does not receive a state prison sentence, the court may:

38 (1)1. Require the offender who violates any criminal
39 provision of chapter 893 to pay an additional assessment in an
40 amount up to the amount of any fine imposed, pursuant to ss.
41 938.21 and 938.23.

42 2. Require the offender who violates any provision of s.



580086

43 893.13 to pay an additional assessment in an amount of \$100,
44 pursuant to ss. 938.055 ~~938.25~~ and 943.361.

45 Section 3. Section 943.361, Florida Statutes, is amended to
46 read:

47 943.361 Statewide criminal analysis laboratory system;
48 funding through fine surcharges.—

49 (1) Funds deposited pursuant to ss. 938.07 and 938.055
50 ~~938.25~~ for the statewide criminal analysis laboratory system
51 shall be used for state reimbursements to local county-operated
52 crime laboratories enumerated in s. 943.35(1), and for the
53 equipment, health, safety, and training of member crime
54 laboratories of the statewide criminal analysis laboratory
55 system.

56 (2) Moneys deposited pursuant to ss. 938.07 and 938.055
57 ~~938.25~~ for the statewide criminal analysis laboratory system
58 shall be appropriated by the Legislature in accordance with the
59 provisions of chapter 216 and with the purposes stated in
60 subsection (1).

61 Section 4. Paragraph (c) of subsection (1) of section
62 945.0311, Florida Statutes, is amended to read:

63 945.0311 Employment of relatives.—

64 (1) For the purposes of this section, the term:

65 (c) "Organizational unit" includes:

66 1. A unit of a state correctional institution such as
67 security, medical, dental, classification, maintenance,
68 personnel, or business. A work camp, ~~boot camp~~, or other annex
69 of a state correctional institution is considered part of the
70 institution and not a separate unit.

71 2. An area of a regional office such as personnel, medical,



580086

72 administrative services, probation and parole, or community
73 facilities.

74 3. A correctional work center, road prison, or work release
75 center.

76 4. A probation and parole circuit office or a suboffice
77 within a circuit.

78 5. A bureau of the Office of the Secretary or of any of the
79 assistant secretaries.

80 Section 5. Subsection (1) of section 951.231, Florida
81 Statutes, is amended to read:

82 951.231 County residential probation program.—

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

86 (a) Reside at the center at all times other than during
87 employment hours and reasonable travel time to and from his or
88 her place of employment, except that supervisory personnel at a
89 county residential probation center may extend the limits of
90 confinement to include, but not be limited to, probation,
91 community control, or other appropriate supervisory techniques.

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

95 ~~(c) Participate in and complete the program required by s.~~
96 ~~958.045, if required by the supervisor of the center.~~

97 (c) ~~(d)~~ Participate in the education program provided at the
98 center, if required by the supervisor of the center.

99 (d) ~~(e)~~ Participate in the drug treatment program provided
100 at the center, if required by the supervisor of the center.



580086

101 Section 6. Subsections (4) and (5) of section 958.04,
102 Florida Statutes, are amended to read:

103 958.04 Judicial disposition of youthful offenders.—

104 ~~(4) Due to severe prison overcrowding, the Legislature~~
105 ~~declares the construction of a basic training program facility~~
106 ~~is necessary to aid in alleviating an emergency situation.~~

107 ~~(5) The department shall provide a special training program~~
108 ~~for staff selected for the basic training program.~~

109 Section 7. Section 958.045, Florida Statutes, is repealed.

110 Section 8. Subsection (4) of section 944.02, Florida
111 Statutes, is amended to read:

112 944.02 Definitions.—The following words and phrases used in
113 this chapter shall, unless the context clearly indicates
114 otherwise, have the following meanings:

115 (4) "Elderly offender" means a prisoner age 50 or older in
116 a state correctional institution or a private correctional
117 ~~facility operated by the Department of Corrections or the~~
118 ~~Department of Management Services.~~

119 Section 9. Paragraph (b) of subsection (2) of section
120 944.115, Florida Statutes, is amended to read:

121 944.115 Smoking prohibited inside state correctional
122 facilities.—

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

124 (b) "Employee" means an employee of the department or a
125 private vendor in a contractual relationship with the department
126 ~~either the Department of Corrections or the Department of~~
127 ~~Management Services, and includes persons such as contractors,~~
128 volunteers, or law enforcement officers who are within a state
129 correctional facility to perform a professional service.



580086

130 Section 10. Subsection (1) of section 944.72, Florida
131 Statutes, is amended to read:

132 944.72 Privately Operated Institutions Inmate Welfare Trust
133 Fund.—

134 (1) There is hereby created in the Department of
135 Corrections the Privately Operated Institutions Inmate Welfare
136 Trust Fund. The purpose of the trust fund shall be the benefit
137 and welfare of inmates incarcerated in private correctional
138 facilities under contract with the department pursuant to this
139 chapter or ~~the Department of Management Services pursuant to~~
140 chapter 957. Moneys shall be deposited in the trust fund and
141 expenditures made from the trust fund as provided in s. 945.215.

142 Section 11. Section 944.8041, Florida Statutes, is amended
143 to read:

144 944.8041 Elderly offenders; annual review.—For the purpose
145 of providing information to the Legislature on elderly offenders
146 within the correctional system, the department and the
147 Correctional Medical Authority shall each submit annually a
148 report on the status and treatment of elderly offenders in the
149 state-administered and private state correctional systems and
150 the department's geriatric facilities and dorms. In order to
151 adequately prepare the reports, the department ~~and the~~
152 ~~Department of Management Services~~ shall grant access to the
153 Correctional Medical Authority that includes access to the
154 facilities, offenders, and any information the agencies require
155 to complete their reports. The review shall also include an
156 examination of promising geriatric policies, practices, and
157 programs currently implemented in other correctional systems
158 within the United States. The reports, with specific findings



580086

159 and recommendations for implementation, shall be submitted to
160 the President of the Senate and the Speaker of the House of
161 Representatives on or before December 31 of each year.

162 Section 12. Paragraphs (a) and (c) of subsection (2) of
163 section 945.215, Florida Statutes, are amended to read:

164 945.215 Inmate welfare and employee benefit trust funds.—

165 (2) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST
166 FUND; PRIVATE CORRECTIONAL FACILITIES.—

167 (a) For purposes of this subsection, privately operated
168 institutions or private correctional facilities are those
169 correctional facilities under contract with the department
170 pursuant to chapter 944 or ~~the Department of Management Services~~
171 ~~pursuant to~~ chapter 957.

172 (c) The department ~~of Management Services~~ shall annually
173 compile a report that documents Privately Operated Institutions
174 Inmate Welfare Trust Fund receipts and expenditures at each
175 private correctional facility. This report must specifically
176 identify receipt sources and expenditures. The department ~~of~~
177 ~~Management Services~~ shall compile this report for the prior
178 fiscal year and shall submit the report by September 1 of each
179 year to the chairs of the appropriate substantive and fiscal
180 committees of the Senate and House of Representatives and to the
181 Executive Office of the Governor.

182 Section 13. Effective July 1, 2011, the statutory powers,
183 duties, and functions, and the records, personnel, property, and
184 unexpended balances of appropriations, allocations, or other
185 funds related to the requirements of chapter 957, Florida
186 Statutes, which are currently under the Department of Management
187 Services are transferred to the Department of Corrections by a



580086

188 type two transfer, pursuant to s. 20.06, Florida Statutes. The
189 Secretary of Corrections is authorized to establish units or
190 subunits and to assign administrative authority for the
191 responsibilities and functions transferred pursuant to this
192 section.

193 Section 14. Paragraphs (a), (b), (e), and (g) of subsection
194 (1), paragraph (c) of subsection (2), and subsections (5), (6),
195 and (7) of section 957.04, Florida Statutes, are amended to
196 read:

197 957.04 Contract requirements.—

198 (1) A contract entered into under this chapter for the
199 operation of private correctional facilities shall maximize the
200 cost savings of such facilities and shall:

201 (a) Be negotiated with the firm found most qualified.
202 However, a contract for private correctional services may not be
203 entered into by the department ~~of Management Services~~ unless the
204 department ~~of Management Services~~ determines that the contractor
205 has demonstrated that it has:

206 1. The qualifications, experience, and management personnel
207 necessary to carry out the terms of the contract.

208 2. The ability to expedite the siting, design, and
209 construction of correctional facilities.

210 3. The ability to comply with applicable laws, court
211 orders, and national correctional standards.

212 (b) Indemnify the state and the department, including their
213 officials and agents, against any and all liability, including,
214 but not limited to, civil rights liability. Proof of
215 satisfactory insurance is required in an amount to be determined
216 by the department ~~of Management Services~~.



580086

217 (e) Establish operations standards for correctional
218 facilities subject to the contract. However, if the department
219 and the contractor disagree with an operations standard, the
220 contractor may propose to waive any rule, policy, or procedure
221 of the department related to the operations standards of
222 correctional facilities which is inconsistent with the mission
223 of the contractor to establish cost-effective, privately
224 operated correctional facilities. The department ~~of Management~~
225 ~~Services~~ shall be responsible for considering all proposals from
226 the contractor to waive any rule, policy, or procedure and shall
227 render a final decision granting or denying such request.

228 (g) Require the selection and appointment of a full-time
229 contract monitor. The contract monitor shall be appointed and
230 supervised by the department ~~of Management Services~~. The
231 contractor is required to reimburse the department ~~of Management~~
232 ~~Services~~ for the salary and expenses of the contract monitor. It
233 is the obligation of the contractor to provide suitable office
234 space for the contract monitor at the correctional facility. The
235 contract monitor shall have unlimited access to the correctional
236 facility.

237 (2) Each contract entered into for the design and
238 construction of a private correctional facility or juvenile
239 commitment facility must include:

240 (c) A specific provision requiring the contractor, and not
241 the department ~~of Management Services~~, to obtain the financing
242 required to design and construct the private correctional
243 facility or juvenile commitment facility built under this
244 chapter.

245 (5) Each contract entered into by the department ~~of~~



580086

246 ~~Management Services~~ must include substantial minority
247 participation unless demonstrated by evidence, after a good
248 faith effort, as impractical and must also include any other
249 requirements the department ~~of Management Services~~ considers
250 necessary and appropriate for carrying out the purposes of this
251 chapter.

252 (6) Notwithstanding s. 253.025(7), the Board of Trustees of
253 the Internal Improvement Trust Fund need not approve a lease-
254 purchase agreement negotiated by the department ~~of Management~~
255 ~~Services~~ if the department ~~of Management Services~~ finds that
256 there is a need to expedite the lease-purchase.

257 (7) (a) Notwithstanding s. 253.025 or s. 287.057, whenever
258 the department ~~of Management Services~~ finds it to be in the best
259 interest of timely site acquisition, it may contract without the
260 need for competitive selection with one or more appraisers whose
261 names are contained on the list of approved appraisers
262 maintained by the Division of State Lands of the Department of
263 Environmental Protection in accordance with s. 253.025(6) (b). In
264 those instances when the department ~~of Management Services~~
265 directly contracts for appraisal services, it shall also
266 contract with an approved appraiser who is not employed by the
267 same appraisal firm for review services.

268 (b) Notwithstanding s. 253.025(6), the department ~~of~~
269 ~~Management Services~~ may negotiate and enter into lease-purchase
270 agreements before an appraisal is obtained. Any such agreement
271 must state that the final purchase price cannot exceed the
272 maximum value allowed by law.

273 Section 15. Subsection (2) of section 957.06, Florida
274 Statutes, is amended to read:



580086

275 957.06 Powers and duties not delegable to contractor.—A
276 contract entered into under this chapter does not authorize,
277 allow, or imply a delegation of authority to the contractor to:

278 (2) Choose the facility to which an inmate is initially
279 assigned or subsequently transferred. The contractor may
280 request, in writing, that an inmate be transferred to a facility
281 operated by the department. The ~~Department of Management~~
282 ~~Services, the contractor,~~ and the department shall develop and
283 implement a cooperative agreement for transferring inmates
284 between a correctional facility operated by the department and a
285 private correctional facility. The department, ~~the Department of~~
286 ~~Management Services,~~ and the contractor must comply with the
287 cooperative agreement.

288 Section 16. Subsections (1) and (4) and paragraph (d) of
289 subsection (5) of section 957.07, Florida Statutes, are amended
290 to read:

291 957.07 Cost-saving requirements.—

292 (1) The department ~~of Management Services~~ may not enter
293 into a contract or series of contracts unless the department
294 determines that the contract or series of contracts in total for
295 the facility will result in a cost savings to the state of at
296 least 7 percent over the public provision of a similar facility.
297 Such cost savings as determined by the department ~~of Management~~
298 ~~Services~~ must be based upon the actual costs associated with the
299 construction and operation of similar facilities or services as
300 determined by the department ~~of Corrections~~ and certified by the
301 Auditor General. The department ~~of Corrections~~ shall calculate
302 all of the cost components that determine the inmate per diem in
303 correctional facilities of a substantially similar size, type,



580086

304 and location that are operated by the department ~~of Corrections~~,
305 including administrative costs associated with central
306 administration. Services that are provided to the department ~~of~~
307 ~~Corrections~~ by other governmental agencies at no direct cost to
308 the department shall be assigned an equivalent cost and included
309 in the per diem.

310 (4) The department ~~of Corrections~~ shall provide a report
311 detailing the state cost to design, finance, acquire, lease,
312 construct, and operate a facility similar to the private
313 correctional facility on a per diem basis. ~~This report shall be~~
314 ~~provided to the Auditor General in sufficient time that it may~~
315 ~~be certified to the Department of Management Services to be~~
316 ~~included in the request for proposals.~~

317 (5)

318 (d) If a private vendor chooses not to renew the contract
319 at the appropriated level, the department ~~of Management Services~~
320 shall terminate the contract as provided in s. 957.14.

321 Section 17. Section 957.08, Florida Statutes, is amended to
322 read:

323 957.08 Capacity requirements.—The department ~~of Corrections~~
324 shall transfer and assign prisoners to each private correctional
325 facility opened pursuant to this chapter in an amount not less
326 than 90 percent or more than 100 percent of the capacity of the
327 facility pursuant to the contract with the department ~~of~~
328 ~~Management Services~~. The prisoners transferred by the department
329 ~~of Corrections~~ shall represent a cross-section of the general
330 inmate population, based on the grade of custody or the offense
331 of conviction, at the most comparable facility operated by the
332 department.



580086

333 Section 18. Section 957.14, Florida Statutes, is amended to
334 read:

335 957.14 Contract termination and control of a correctional
336 facility by the department.—A detailed plan shall be provided by
337 a private vendor under which the department shall assume
338 temporary control of a private correctional facility upon
339 termination of the contract. The department ~~of Management~~
340 ~~Services~~ may terminate the contract with cause after written
341 notice of material deficiencies and after 60 workdays in order
342 to correct the material deficiencies. If any event occurs that
343 involves the noncompliance with or violation of contract terms
344 and that presents a serious threat to the safety, health, or
345 security of the inmates, employees, or the public, the
346 department may temporarily assume control of the private
347 correctional facility, ~~with the approval of the Department of~~
348 ~~Management Services~~. A plan shall also be provided by a private
349 vendor for the purchase and temporary assumption of operations
350 of a correctional facility by the department in the event of
351 bankruptcy or the financial insolvency of the private vendor.
352 The private vendor shall provide an emergency plan to address
353 inmate disturbances, employee work stoppages, strikes, or other
354 serious events in accordance with standards of the American
355 Correctional Association.

356 Section 19. Section 957.15, Florida Statutes, is amended to
357 read:

358 957.15 Funding of contracts for operation, maintenance, and
359 lease-purchase of private correctional facilities.—The request
360 for appropriation of funds to make payments pursuant to
361 contracts entered into by the department ~~of Management Services~~



580086

362 for the operation, maintenance, and lease-purchase of the
363 private correctional facilities authorized by this chapter shall
364 be made by the ~~Department of Management Services in a request to~~
365 ~~the~~ department. The department shall include such request in its
366 budget request to the Legislature as a separately identified
367 item and ~~shall forward the request of the Department of~~
368 ~~Management Services without change. After an appropriation has~~
369 ~~been made by the Legislature to the department for the private~~
370 ~~correctional facilities, the department shall have no authority~~
371 ~~over such funds other than to pay from such appropriation to the~~
372 ~~appropriate private vendor such amounts as are certified for~~
373 ~~payment by the Department of Management Services.~~

374 Section 20. Section 957.16, Florida Statutes, is amended to
375 read:

376 957.16 Expanding capacity.—The department ~~of Management~~
377 ~~Services~~ is authorized to modify and execute agreements with
378 contractors to expand up to the total capacity of contracted
379 correctional facilities. Total capacity means the design
380 capacity of all contracted correctional facilities increased by
381 one-half as described under s. 944.023(1)(b). Any additional
382 beds authorized under this section must comply with the cost-
383 saving requirements set forth in s. 957.07. Any additional beds
384 authorized as a result of expanded capacity under this section
385 are contingent upon specified appropriations.

386 Section 21. This act shall take effect July 1, 2011.

387
388 ===== T I T L E A M E N D M E N T =====

389 And the title is amended as follows:

390 Delete everything before the enacting clause



580086

391 and insert:

392 A bill to be entitled
393 An act relating to criminal justice; transferring,
394 renumbering, and amending s. 938.25, F.S.; requiring a
395 court to assess an additional amount against a
396 defendant who pleads guilty or nolo contendere to, or
397 who is convicted of, violating certain specified
398 offenses, and the services of a criminal analysis
399 laboratory are used in the investigation of the
400 offense; providing for the proceeds of the assessment
401 to be deposited into the Operating Trust Fund of the
402 Department of Law Enforcement and used by the
403 statewide criminal analysis laboratory system;
404 prohibiting the court from waiving the assessment;
405 amending ss. 921.187 and 943.361, F.S.; conforming
406 cross-references; amending s. 945.0311, F.S.; deleting
407 a reference to the youthful offender basic training
408 program; amending s. 951.231, F.S.; removing a
409 reference to the youthful offender basic training
410 program; amending s. 958.04, F.S.; deleting references
411 to the youthful offender basic training program;
412 repealing s. 958.045, F.S., relating to the youthful
413 offender basic training program; amending s. 944.02,
414 F.S.; redefining the term "elderly offender" to remove
415 a reference to the Department of Management Services;
416 amending s. 944.115, F.S.; removing a reference to the
417 Department of Management Services in the definition of
418 the term "employee"; amending ss. 944.72, 944.8041,
419 and 945.215, F.S.; conforming provisions to changes



580086

420 made by the act; providing for a transfer of specified
421 duties, functions, property, and funds from the
422 Department of Management Services to the Department of
423 Corrections; amending ss. 957.04, 957.06, 957.07,
424 957.08, 957.14, 957.15, and 957.16, F.S.; conforming
425 provisions to changes made by the act; providing an
426 effective date.