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1
2 An act relating to criminal justice; transferring,
3 renumbering, and amending s. 938.25, F.S.; requiring a
4 court to assess an additional amount against a
5 defendant who pleads guilty or nolo contendere to, or
6 who is convicted of, violating certain specified
7 offenses, and the services of a criminal analysis
8 laboratory are used in the investigation of the
9 offense; providing for the proceeds of the assessment
10 to be deposited into the Operating Trust Fund of the
11 Department of Law Enforcement and used by the
12 statewide criminal analysis laboratory system;
13 prohibiting the court from waiving the assessment;
14 amending ss. 921.187 and 943.361, F.S.; conforming
15 cross-references; amending s. 945.0311, F.S.; deleting
16 a reference to the youthful offender basic training
17 program; amending s. 951.231, F.S.; removing a
18 reference to the youthful offender basic training
19 program; amending s. 958.04, F.S.; deleting references
20 to the youthful offender basic training program;
21 repealing s. 958.045, F.S., relating to the youthful
22 offender basic training program; amending s. 944.02,
23 F.S.; redefining the term "elderly offender" to remove
24 a reference to the Department of Management Services;
25 amending s. 944.115, F.S.; removing a reference to the
26 Department of Management Services in the definition of
27 the term "employee"; amending ss. 944.72, 944.8041,
28 and 945.215, F.S.; conforming provisions to changes
29 made by the act; providing for a transfer of specified

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30 duties, functions, property, and funds from the
31 Department of Management Services to the Department of
32 Corrections; amending ss. 957.04, 957.06, 957.07,
33 957.08, 957.14, 957.15, and 957.16, F.S.; conforming
34 provisions to changes made by the act; providing an
35 effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Section 938.25, Florida Statutes, is
40 transferred, renumbered as section 938.055, Florida Statutes,
41 and amended to read:

42 938.055 ~~938.25~~ Operating Trust Fund of the Department of
43 Law Enforcement.—Notwithstanding any provision to the contrary
44 of the laws of this state, the court shall ~~may~~ assess any
45 defendant who pleads guilty or nolo contendere to, or is
46 convicted of, a violation of any provision of chapters 775-896
47 ~~s. 893.13~~, without regard to whether adjudication was withheld,
48 in addition to any fine and other penalty provided or authorized
49 by law, an amount of \$100, to be paid to the clerk of the court,
50 who shall forward it to the Department of Revenue for deposit in
51 the Operating Trust Fund of the Department of Law Enforcement to
52 be used by the statewide criminal analysis laboratory system for
53 the purposes specified in s. 943.361. This amount shall be
54 assessed when the services of any criminal analysis laboratory,
55 as designated in s. 943.32, is used in connection with the
56 investigation or prosecution of a violation of any provision of
57 chapters 775-896. The court may not waive this assessment ~~is~~
58 ~~authorized to order a defendant to pay an additional assessment~~

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59 ~~if it finds that the defendant has the ability to pay the fine~~
60 ~~and the additional assessment and will not be prevented thereby~~
61 ~~from being rehabilitated or from making restitution.~~

62 Section 2. Paragraph (1) of subsection (1) of section
63 921.187, Florida Statutes, is amended to read:

64 921.187 Disposition and sentencing; alternatives;
65 restitution.—

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

71 (1)1. Require the offender who violates any criminal
72 provision of chapter 893 to pay an additional assessment in an
73 amount up to the amount of any fine imposed, pursuant to ss.
74 938.21 and 938.23.

75 2. Require the offender who violates any provision of s.
76 893.13 to pay an additional assessment in an amount of \$100,
77 pursuant to ss. 938.055 ~~938.25~~ and 943.361.

78 Section 3. Section 943.361, Florida Statutes, is amended to
79 read:

80 943.361 Statewide criminal analysis laboratory system;
81 funding through fine surcharges.—

82 (1) Funds deposited pursuant to ss. 938.07 and 938.055
83 ~~938.25~~ for the statewide criminal analysis laboratory system
84 shall be used for state reimbursements to local county-operated
85 crime laboratories enumerated in s. 943.35(1), and for the
86 equipment, health, safety, and training of member crime
87 laboratories of the statewide criminal analysis laboratory

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88 system.

89 (2) Moneys deposited pursuant to ss. 938.07 and 938.055
90 ~~938.25~~ for the statewide criminal analysis laboratory system
91 shall be appropriated by the Legislature in accordance with the
92 provisions of chapter 216 and with the purposes stated in
93 subsection (1).

94 Section 4. Paragraph (c) of subsection (1) of section
95 945.0311, Florida Statutes, is amended to read:

96 945.0311 Employment of relatives.—

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

98 (c) "Organizational unit" includes:

99 1. A unit of a state correctional institution such as
100 security, medical, dental, classification, maintenance,
101 personnel, or business. A work camp, ~~boot camp,~~ or other annex
102 of a state correctional institution is considered part of the
103 institution and not a separate unit.

104 2. An area of a regional office such as personnel, medical,
105 administrative services, probation and parole, or community
106 facilities.

107 3. A correctional work center, road prison, or work release
108 center.

109 4. A probation and parole circuit office or a suboffice
110 within a circuit.

111 5. A bureau of the Office of the Secretary or of any of the
112 assistant secretaries.

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

115 951.231 County residential probation program.—

116 (1) Any prisoner who has been sentenced under s. 921.18 to

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117 serve a sentence in a county residential probation center as
118 described in s. 951.23 shall:

119 (a) Reside at the center at all times other than during
120 employment hours and reasonable travel time to and from his or
121 her place of employment, except that supervisory personnel at a
122 county residential probation center may extend the limits of
123 confinement to include, but not be limited to, probation,
124 community control, or other appropriate supervisory techniques.

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

128 ~~(c) Participate in and complete the program required by s.~~
129 ~~958.045, if required by the supervisor of the center.~~

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

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

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

136 958.04 Judicial disposition of youthful offenders.—

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

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

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

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

145 944.02 Definitions.—The following words and phrases used in

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146 this chapter shall, unless the context clearly indicates
147 otherwise, have the following meanings:

148 (4) "Elderly offender" means a prisoner age 50 or older in
149 a state correctional institution or a private correctional
150 ~~facility operated by the Department of Corrections or the~~
151 ~~Department of Management Services.~~

152 Section 9. Paragraph (b) of subsection (2) of section
153 944.115, Florida Statutes, is amended to read:

154 944.115 Smoking prohibited inside state correctional
155 facilities.—

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

157 (b) "Employee" means an employee of the department or a
158 private vendor in a contractual relationship with the department
159 ~~either the Department of Corrections or the Department of~~
160 ~~Management Services~~, and includes persons such as contractors,
161 volunteers, or law enforcement officers who are within a state
162 correctional facility to perform a professional service.

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

165 944.72 Privately Operated Institutions Inmate Welfare Trust
166 Fund.—

167 (1) There is hereby created in the Department of
168 Corrections the Privately Operated Institutions Inmate Welfare
169 Trust Fund. The purpose of the trust fund shall be the benefit
170 and welfare of inmates incarcerated in private correctional
171 facilities under contract with the department pursuant to this
172 chapter or ~~the Department of Management Services pursuant to~~
173 chapter 957. Moneys shall be deposited in the trust fund and
174 expenditures made from the trust fund as provided in s. 945.215.

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175 Section 11. Section 944.8041, Florida Statutes, is amended
176 to read:

177 944.8041 Elderly offenders; annual review.—For the purpose
178 of providing information to the Legislature on elderly offenders
179 within the correctional system, the department and the
180 Correctional Medical Authority shall each submit annually a
181 report on the status and treatment of elderly offenders in the
182 state-administered and private state correctional systems and
183 the department's geriatric facilities and dorms. In order to
184 adequately prepare the reports, the department ~~and the~~
185 ~~Department of Management Services~~ shall grant access to the
186 Correctional Medical Authority that includes access to the
187 facilities, offenders, and any information the agencies require
188 to complete their reports. The review shall also include an
189 examination of promising geriatric policies, practices, and
190 programs currently implemented in other correctional systems
191 within the United States. The reports, with specific findings
192 and recommendations for implementation, shall be submitted to
193 the President of the Senate and the Speaker of the House of
194 Representatives on or before December 31 of each year.

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

197 945.215 Inmate welfare and employee benefit trust funds.—

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

200 (a) For purposes of this subsection, privately operated
201 institutions or private correctional facilities are those
202 correctional facilities under contract with the department
203 pursuant to chapter 944 or ~~the Department of Management Services~~

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204 ~~pursuant to~~ chapter 957.

205 (c) The department ~~of Management Services~~ shall annually
206 compile a report that documents Privately Operated Institutions
207 Inmate Welfare Trust Fund receipts and expenditures at each
208 private correctional facility. This report must specifically
209 identify receipt sources and expenditures. The department ~~of~~
210 ~~Management Services~~ shall compile this report for the prior
211 fiscal year and shall submit the report by September 1 of each
212 year to the chairs of the appropriate substantive and fiscal
213 committees of the Senate and House of Representatives and to the
214 Executive Office of the Governor.

215 Section 13. Effective July 1, 2011, the statutory powers,
216 duties, and functions, and the records, personnel, property, and
217 unexpended balances of appropriations, allocations, or other
218 funds related to the requirements of chapter 957, Florida
219 Statutes, which are currently under the Department of Management
220 Services are transferred to the Department of Corrections by a
221 type two transfer, pursuant to s. 20.06, Florida Statutes. The
222 Secretary of Corrections is authorized to establish units or
223 subunits and to assign administrative authority for the
224 responsibilities and functions transferred pursuant to this
225 section.

226 Section 14. Paragraphs (a), (b), (e), and (g) of subsection
227 (1), paragraph (c) of subsection (2), and subsections (5), (6),
228 and (7) of section 957.04, Florida Statutes, are amended to
229 read:

230 957.04 Contract requirements.—

231 (1) A contract entered into under this chapter for the
232 operation of private correctional facilities shall maximize the

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233 cost savings of such facilities and shall:

234 (a) Be negotiated with the firm found most qualified.

235 However, a contract for private correctional services may not be
236 entered into by the department ~~of Management Services~~ unless the
237 department ~~of Management Services~~ determines that the contractor
238 has demonstrated that it has:

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

241 2. The ability to expedite the siting, design, and
242 construction of correctional facilities.

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

245 (b) Indemnify the state and the department, including their
246 officials and agents, against any and all liability, including,
247 but not limited to, civil rights liability. Proof of
248 satisfactory insurance is required in an amount to be determined
249 by the department ~~of Management Services~~.

250 (e) Establish operations standards for correctional
251 facilities subject to the contract. However, if the department
252 and the contractor disagree with an operations standard, the
253 contractor may propose to waive any rule, policy, or procedure
254 of the department related to the operations standards of
255 correctional facilities which is inconsistent with the mission
256 of the contractor to establish cost-effective, privately
257 operated correctional facilities. The department ~~of Management~~
258 ~~Services~~ shall be responsible for considering all proposals from
259 the contractor to waive any rule, policy, or procedure and shall
260 render a final decision granting or denying such request.

261 (g) Require the selection and appointment of a full-time

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262 contract monitor. The contract monitor shall be appointed and
263 supervised by the department ~~of Management Services~~. The
264 contractor is required to reimburse the department ~~of Management~~
265 ~~Services~~ for the salary and expenses of the contract monitor. It
266 is the obligation of the contractor to provide suitable office
267 space for the contract monitor at the correctional facility. The
268 contract monitor shall have unlimited access to the correctional
269 facility.

270 (2) Each contract entered into for the design and
271 construction of a private correctional facility or juvenile
272 commitment facility must include:

273 (c) A specific provision requiring the contractor, and not
274 the department ~~of Management Services~~, to obtain the financing
275 required to design and construct the private correctional
276 facility or juvenile commitment facility built under this
277 chapter.

278 (5) Each contract entered into by the department ~~of~~
279 ~~Management Services~~ must include substantial minority
280 participation unless demonstrated by evidence, after a good
281 faith effort, as impractical and must also include any other
282 requirements the department ~~of Management Services~~ considers
283 necessary and appropriate for carrying out the purposes of this
284 chapter.

285 (6) Notwithstanding s. 253.025(7), the Board of Trustees of
286 the Internal Improvement Trust Fund need not approve a lease-
287 purchase agreement negotiated by the department ~~of Management~~
288 ~~Services~~ if the department ~~of Management Services~~ finds that
289 there is a need to expedite the lease-purchase.

290 (7) (a) Notwithstanding s. 253.025 or s. 287.057, whenever

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291 the department ~~of Management Services~~ finds it to be in the best
292 interest of timely site acquisition, it may contract without the
293 need for competitive selection with one or more appraisers whose
294 names are contained on the list of approved appraisers
295 maintained by the Division of State Lands of the Department of
296 Environmental Protection in accordance with s. 253.025(6) (b). In
297 those instances when the department ~~of Management Services~~
298 directly contracts for appraisal services, it shall also
299 contract with an approved appraiser who is not employed by the
300 same appraisal firm for review services.

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

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

308 957.06 Powers and duties not delegable to contractor.—A
309 contract entered into under this chapter does not authorize,
310 allow, or imply a delegation of authority to the contractor to:

311 (2) Choose the facility to which an inmate is initially
312 assigned or subsequently transferred. The contractor may
313 request, in writing, that an inmate be transferred to a facility
314 operated by the department. The ~~Department of Management~~
315 ~~Services, the contractor,~~ and the department shall develop and
316 implement a cooperative agreement for transferring inmates
317 between a correctional facility operated by the department and a
318 private correctional facility. The department, ~~the Department of~~
319 ~~Management Services,~~ and the contractor must comply with the

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320 cooperative agreement.

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

324 957.07 Cost-saving requirements.—

325 (1) The department ~~of Management Services~~ may not enter
326 into a contract or series of contracts unless the department
327 determines that the contract or series of contracts in total for
328 the facility will result in a cost savings to the state of at
329 least 7 percent over the public provision of a similar facility.
330 Such cost savings as determined by the department ~~of Management~~
331 ~~Services~~ must be based upon the actual costs associated with the
332 construction and operation of similar facilities or services as
333 determined by the department ~~of Corrections~~ and certified by the
334 Auditor General. The department ~~of Corrections~~ shall calculate
335 all of the cost components that determine the inmate per diem in
336 correctional facilities of a substantially similar size, type,
337 and location that are operated by the department ~~of Corrections~~,
338 including administrative costs associated with central
339 administration. Services that are provided to the department ~~of~~
340 ~~Corrections~~ by other governmental agencies at no direct cost to
341 the department shall be assigned an equivalent cost and included
342 in the per diem.

343 (4) The department ~~of Corrections~~ shall provide a report
344 detailing the state cost to design, finance, acquire, lease,
345 construct, and operate a facility similar to the private
346 correctional facility on a per diem basis. ~~This report shall be~~
347 ~~provided to the Auditor General in sufficient time that it may~~
348 ~~be certified to the Department of Management Services to be~~

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349 ~~included in the request for proposals.~~

350 (5)

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

354 Section 17. Section 957.08, Florida Statutes, is amended to
355 read:

356 957.08 Capacity requirements.—The department ~~of Corrections~~
357 shall transfer and assign prisoners to each private correctional
358 facility opened pursuant to this chapter in an amount not less
359 than 90 percent or more than 100 percent of the capacity of the
360 facility pursuant to the contract with the department ~~of~~
361 ~~Management Services~~. The prisoners transferred by the department
362 ~~of Corrections~~ shall represent a cross-section of the general
363 inmate population, based on the grade of custody or the offense
364 of conviction, at the most comparable facility operated by the
365 department.

366 Section 18. Section 957.14, Florida Statutes, is amended to
367 read:

368 957.14 Contract termination and control of a correctional
369 facility by the department.—A detailed plan shall be provided by
370 a private vendor under which the department shall assume
371 temporary control of a private correctional facility upon
372 termination of the contract. The department ~~of Management~~
373 ~~Services~~ may terminate the contract with cause after written
374 notice of material deficiencies and after 60 workdays in order
375 to correct the material deficiencies. If any event occurs that
376 involves the noncompliance with or violation of contract terms
377 and that presents a serious threat to the safety, health, or

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378 security of the inmates, employees, or the public, the
379 department may temporarily assume control of the private
380 correctional facility, ~~with the approval of the Department of~~
381 ~~Management Services~~. A plan shall also be provided by a private
382 vendor for the purchase and temporary assumption of operations
383 of a correctional facility by the department in the event of
384 bankruptcy or the financial insolvency of the private vendor.
385 The private vendor shall provide an emergency plan to address
386 inmate disturbances, employee work stoppages, strikes, or other
387 serious events in accordance with standards of the American
388 Correctional Association.

389 Section 19. Section 957.15, Florida Statutes, is amended to
390 read:

391 957.15 Funding of contracts for operation, maintenance, and
392 lease-purchase of private correctional facilities.—The request
393 for appropriation of funds to make payments pursuant to
394 contracts entered into by the department ~~of Management Services~~
395 for the operation, maintenance, and lease-purchase of the
396 private correctional facilities authorized by this chapter shall
397 be made by the ~~Department of Management Services~~ in a request to
398 the department. The department shall include such request in its
399 budget request to the Legislature as a separately identified
400 item and ~~shall forward the request of the Department of~~
401 ~~Management Services without change. After an appropriation has~~
402 ~~been made by the Legislature to the department for the private~~
403 ~~correctional facilities, the department shall have no authority~~
404 ~~over such funds other than to pay from such appropriation to the~~
405 ~~appropriate private vendor such amounts as are certified for~~
406 ~~payment by the Department of Management Services.~~

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407 Section 20. Section 957.16, Florida Statutes, is amended to
408 read:

409 957.16 Expanding capacity.—The department ~~of Management~~
410 ~~Services~~ is authorized to modify and execute agreements with
411 contractors to expand up to the total capacity of contracted
412 correctional facilities. Total capacity means the design
413 capacity of all contracted correctional facilities increased by
414 one-half as described under s. 944.023(1)(b). Any additional
415 beds authorized under this section must comply with the cost-
416 saving requirements set forth in s. 957.07. Any additional beds
417 authorized as a result of expanded capacity under this section
418 are contingent upon specified appropriations.

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