

1 A bill to be entitled
2 An act relating to the Department of Corrections; amending
3 s. 945.0311, F.S.; deleting a reference to the youthful
4 offender basic training program; amending s. 951.231,
5 F.S.; removing a reference to the youthful offender basic
6 training program; amending s. 958.04, F.S.; deleting
7 references to the youthful offender basic training
8 program; repealing s. 958.045, F.S., relating to the
9 youthful offender basic training program; amending s.
10 943.10, F.S.; revising the definitions of "correctional
11 probation officer" and "part-time correctional probation
12 officer"; amending s. 944.02, F.S.; redefining the term
13 "elderly offender" to remove a reference to the Department
14 of Management Services; creating s. 944.1051, F.S.;
15 authorizing the Department of Corrections to contract with
16 a private entity to supervise offenders on community
17 supervision in Broward and Miami-Dade counties pursuant to
18 the General Appropriations Act; providing contract
19 requirements; providing definitions; amending s. 944.115,
20 F.S.; removing a reference to the Department of Management
21 Services in the definition of the term "employee";
22 amending ss. 944.72, 944.8041, and 945.215, F.S.;
23 conforming provisions to changes made by the act; amending
24 s. 947.005, F.S.; revising the definition of "department";
25 amending s. 948.001, F.S.; defining the term "department"
26 for purposes of chapter 948, F.S., relating to probation
27 and community control; amending s. 948.01, F.S.; providing
28 an exception to the prohibition on private entities

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

36

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

38

39 Section 1. Paragraph (c) of subsection (1) of section
 40 945.0311, Florida Statutes, is amended to read:

41 945.0311 Employment of relatives.—

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

43 (c) "Organizational unit" includes:

44 1. A unit of a state correctional institution such as
 45 security, medical, dental, classification, maintenance,
 46 personnel, or business. A work camp, ~~boot camp~~, or other annex
 47 of a state correctional institution is considered part of the
 48 institution and not a separate unit.

49 2. An area of a regional office such as personnel,
 50 medical, administrative services, probation and parole, or
 51 community facilities.

52 3. A correctional work center, road prison, or work
 53 release center.

54 4. A probation and parole circuit office or a suboffice
 55 within a circuit.

56 5. A bureau of the Office of the Secretary or of any of

57 | the assistant secretaries.

58 | Section 2. Subsection (1) of section 951.231, Florida
59 | Statutes, is amended to read:

60 | 951.231 County residential probation program.—

61 | (1) Any prisoner who has been sentenced under s. 921.18 to
62 | serve a sentence in a county residential probation center as
63 | described in s. 951.23 shall:

64 | (a) Reside at the center at all times other than during
65 | employment hours and reasonable travel time to and from his or
66 | her place of employment, except that supervisory personnel at a
67 | county residential probation center may extend the limits of
68 | confinement to include, but not be limited to, probation,
69 | community control, or other appropriate supervisory techniques.

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

73 | ~~(c) Participate in and complete the program required by s.~~
74 | ~~958.045, if required by the supervisor of the center.~~

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

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

79 | Section 3. Subsections (4) and (5) of section 958.04,
80 | Florida Statutes, are amended to read:

81 | 958.04 Judicial disposition of youthful offenders.—

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

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

87 Section 4. Section 958.045, Florida Statutes, is repealed.

88 Section 5. Subsections (3) and (19) of section 943.10,
 89 Florida Statutes, are amended to read:

90 943.10 Definitions; ss. 943.085-943.255.—The following
 91 words and phrases as used in ss. 943.085-943.255 are defined as
 92 follows:

93 (3) "Correctional probation officer" means a person who is
 94 employed full time by the state, or by any private entity that
 95 has contracted with the state pursuant to proviso in s. 4 of the
 96 2011-2012 General Appropriations Act directing the Department of
 97 Corrections to procure comprehensive correctional services, and
 98 whose primary responsibility is the supervised custody,
 99 surveillance, and control of assigned inmates, probationers,
 100 parolees, or community controllees within institutions of the
 101 Department of Corrections or within the community. The term
 102 includes supervisory personnel whose duties include, in whole or
 103 in part, the supervision, training, and guidance of correctional
 104 probation officers, but excludes management and administrative
 105 personnel above, but not including, the probation and parole
 106 regional administrator level.

107 (19) "Part-time correctional probation officer" means a
 108 person who is employed less than full time by the state, or by
 109 any private entity which has contracted with the state pursuant
 110 to proviso in s. 4 of the 2011-2012 General Appropriations Act
 111 directing the Department of Corrections to procure comprehensive
 112 correctional services, and whose primary responsibility is the

113 supervised custody, surveillance, and control of assigned
 114 inmates, probationers, parolees, or community controllees within
 115 institutions of the Department of Corrections or in the
 116 community.

117 Section 6. Subsection (4) of section 944.02, Florida
 118 Statutes, is amended to read:

119 944.02 Definitions.—The following words and phrases used
 120 in this chapter shall, unless the context clearly indicates
 121 otherwise, have the following meanings:

122 (4) "Elderly offender" means a prisoner age 50 or older in
 123 a state correctional institution or a private correctional
 124 ~~facility operated by the Department of Corrections or the~~
 125 ~~Department of Management Services.~~

126 Section 7. Section 944.1051, Florida Statutes, is created
 127 to read:

128 944.1051 Contractual arrangements with private entities
 129 for the supervision of offenders on community supervision.—

130 (1) Pursuant to proviso in s. 4 of the 2011-2012 General
 131 Appropriations Act directing the Department of Corrections to
 132 procure comprehensive correctional services, the department is
 133 authorized to enter into contracts with a private entity for the
 134 provision of the supervision of offenders on community
 135 supervision in Broward and Miami-Dade counties. A contract
 136 entered into pursuant to this section must:

137 (a) Offer a cost savings to the state of at least 7
 138 percent, as determined by the department. In determining the
 139 cost savings, the department shall calculate all the cost
 140 components that contribute to the offender per diem, including

141 all administrative costs associated with central, regional, and
 142 circuit office administration. Services that are provided to the
 143 department by other government agencies without any direct cost
 144 to the department shall be assigned an equivalent cost and
 145 included in the per diem.

146 (b) Require that the private entity comply with all
 147 statutes relating to the supervision of offenders on community
 148 supervision, all rules of the department, all court orders
 149 relating to offenders on community supervision, and all American
 150 Correctional Association standards.

151 (c) Require the department, in consultation with the
 152 private vendor, to establish high, reasonable, and achievable
 153 performance standards that the private entity must meet.

154 (d) Require the private entity to report to the department
 155 whether the private entity has met the established performance
 156 standards.

157 (e) Require the private entity to provide at least the
 158 same quality of services as that offered by the department.

159 (f) Require that correctional probation officers employed
 160 by a private entity be certified under s. 943.1395, at the
 161 private entity's expense.

162 (g) Require the private entity to give first consideration
 163 for employment to employees of the department located in Broward
 164 and Miami-Dade counties.

165 (2) The private entity entering into a contract with the
 166 department pursuant to this section shall be liable in tort with
 167 respect to the supervision of offenders under its supervision
 168 and for any breach of contract with the department.

169 (3) Sections 216.311 and 287.057 apply to all contracts
 170 between the department and any private entity providing
 171 community supervision services. The department shall adopt rules
 172 pursuant to chapter 120 specifying criteria for such contractual
 173 arrangements.

174 (4) For purposes of this section, the term "community
 175 supervision" means administrative probation, community control,
 176 drug offender probation, probation, and sex offender probation
 177 as those terms are defined in s. 948.001. The term also includes
 178 conditional release, control release, conditional medical
 179 release, parole, and addiction-recovery supervision, as provided
 180 in chapter 947.

181 Section 8. Paragraph (b) of subsection (2) of section
 182 944.115, Florida Statutes, is amended to read:

183 944.115 Smoking prohibited inside state correctional
 184 facilities.—

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

186 (b) "Employee" means an employee of the department or a
 187 private vendor in a contractual relationship with the department
 188 ~~either the Department of Corrections or the Department of~~
 189 ~~Management Services~~, and includes persons such as contractors,
 190 volunteers, or law enforcement officers who are within a state
 191 correctional facility to perform a professional service.

192 Section 9. Subsection (1) of section 944.72, Florida
 193 Statutes, is amended to read:

194 944.72 Privately Operated Institutions Inmate Welfare
 195 Trust Fund.—

CS/HB 5403

2011

196 (1) There is hereby created in the Department of
197 Corrections the Privately Operated Institutions Inmate Welfare
198 Trust Fund. The purpose of the trust fund shall be the benefit
199 and welfare of inmates incarcerated in private correctional
200 facilities under contract with the department pursuant to this
201 chapter or ~~the Department of Management Services pursuant to~~
202 chapter 957. Moneys shall be deposited in the trust fund and
203 expenditures made from the trust fund as provided in s. 945.215.

204 Section 10. Section 944.8041, Florida Statutes, is amended
205 to read:

206 944.8041 Elderly offenders; annual review.—For the purpose
207 of providing information to the Legislature on elderly offenders
208 within the correctional system, the department and the
209 Correctional Medical Authority shall each submit annually a
210 report on the status and treatment of elderly offenders in the
211 state-administered and private state correctional systems and
212 the department's geriatric facilities and dorms. In order to
213 adequately prepare the reports, the department ~~and the~~
214 ~~Department of Management Services~~ shall grant access to the
215 Correctional Medical Authority that includes access to the
216 facilities, offenders, and any information the agencies require
217 to complete their reports. The review shall also include an
218 examination of promising geriatric policies, practices, and
219 programs currently implemented in other correctional systems
220 within the United States. The reports, with specific findings
221 and recommendations for implementation, shall be submitted to
222 the President of the Senate and the Speaker of the House of
223 Representatives on or before December 31 of each year.

CS/HB 5403

2011

224 Section 11. Paragraphs (a) and (c) of subsection (2) of
 225 section 945.215, Florida Statutes, are amended to read:

226 945.215 Inmate welfare and employee benefit trust funds.—

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

229 (a) For purposes of this subsection, privately operated
 230 institutions or private correctional facilities are those
 231 correctional facilities under contract with the department
 232 pursuant to chapter 944 or ~~the Department of Management Services~~
 233 ~~pursuant to~~ chapter 957.

234 (c) The department ~~of Management Services~~ shall annually
 235 compile a report that documents Privately Operated Institutions
 236 Inmate Welfare Trust Fund receipts and expenditures at each
 237 private correctional facility. This report must specifically
 238 identify receipt sources and expenditures. The department ~~of~~
 239 ~~Management Services~~ shall compile this report for the prior
 240 fiscal year and shall submit the report by September 1 of each
 241 year to the chairs of the appropriate substantive and fiscal
 242 committees of the Senate and House of Representatives and to the
 243 Executive Office of the Governor.

244 Section 12. Subsection (4) of section 947.005, Florida
 245 Statutes, is amended to read:

246 947.005 Definitions.—As used in this chapter, unless the
 247 context clearly indicates otherwise:

248 (4) "Department" means the Department of Corrections or a
 249 private entity that has contracted with the department pursuant
 250 to s. 944.1051.

251 Section 13. Subsections (5) through (13) of section
 252 948.001, Florida Statutes, are renumbered as subsections (6)
 253 through (14), respectively, and a new subsection (5) is added to
 254 that section to read:

255 948.001 Definitions.—As used in this chapter, the term:
 256 (5) "Department" or "Department of Corrections" includes a
 257 private entity that has contracted with the department pursuant
 258 to s. 944.1051.

259 Section 14. Subsection (5) of section 948.01, Florida
 260 Statutes, is amended to read:

261 948.01 When court may place defendant on probation or into
 262 community control.—

263 (5) The imposition of sentence may not be suspended and
 264 the defendant thereupon placed on probation or into community
 265 control unless the defendant is placed under the custody of the
 266 department or another public or private entity. Except as
 267 provided in s. 944.1051, a private entity may not provide
 268 probationary or supervision services to felony or misdemeanor
 269 offenders sentenced or placed on probation or other supervision
 270 by the circuit court.

271 Section 15. Effective July 1, 2011, the statutory powers,
 272 duties, and functions, and the records, personnel, property, and
 273 unexpended balances of appropriations, allocations, or other
 274 funds related to the requirements of chapter 957, Florida
 275 Statutes, that are currently under the Department of Management
 276 Services are hereby transferred to the Department of Corrections
 277 by a type two transfer, pursuant to s. 20.06, Florida Statutes.
 278 The secretary of the Department of Corrections is authorized to

279 establish units or subunits and to assign administrative
 280 authority for the responsibilities and functions transferred
 281 pursuant to this section.

282 Section 16. Paragraphs (a), (b), (e), and (g) of
 283 subsection (1), paragraph (c) of subsection (2), and subsections
 284 (5), (6), and (7) of section 957.04, Florida Statutes, are
 285 amended to read:

286 957.04 Contract requirements.—

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

290 (a) Be negotiated with the firm found most qualified.
 291 However, a contract for private correctional services may not be
 292 entered into by the department ~~of Management Services~~ unless the
 293 department ~~of Management Services~~ determines that the contractor
 294 has demonstrated that it has:

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

297 2. The ability to expedite the siting, design, and
 298 construction of correctional facilities.

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

301 (b) Indemnify the state and the department, including
 302 their officials and agents, against any and all liability,
 303 including, but not limited to, civil rights liability. Proof of
 304 satisfactory insurance is required in an amount to be determined
 305 by the department ~~of Management Services~~.

306 (e) Establish operations standards for correctional
 307 facilities subject to the contract. However, if the department
 308 and the contractor disagree with an operations standard, the
 309 contractor may propose to waive any rule, policy, or procedure
 310 of the department related to the operations standards of
 311 correctional facilities which is inconsistent with the mission
 312 of the contractor to establish cost-effective, privately
 313 operated correctional facilities. The department ~~of Management~~
 314 ~~Services~~ shall be responsible for considering all proposals from
 315 the contractor to waive any rule, policy, or procedure and shall
 316 render a final decision granting or denying such request.

317 (g) Require the selection and appointment of a full-time
 318 contract monitor. The contract monitor shall be appointed and
 319 supervised by the department ~~of Management Services~~. The
 320 contractor is required to reimburse the department ~~of Management~~
 321 ~~Services~~ for the salary and expenses of the contract monitor. It
 322 is the obligation of the contractor to provide suitable office
 323 space for the contract monitor at the correctional facility. The
 324 contract monitor shall have unlimited access to the correctional
 325 facility.

326 (2) Each contract entered into for the design and
 327 construction of a private correctional facility or juvenile
 328 commitment facility must include:

329 (c) A specific provision requiring the contractor, and not
 330 the department ~~of Management Services~~, to obtain the financing
 331 required to design and construct the private correctional
 332 facility or juvenile commitment facility built under this
 333 chapter.

CS/HB 5403

2011

334 (5) Each contract entered into by the department of ~~of~~
335 ~~Management Services~~ must include substantial minority
336 participation unless demonstrated by evidence, after a good
337 faith effort, as impractical and must also include any other
338 requirements the department of ~~of Management Services~~ considers
339 necessary and appropriate for carrying out the purposes of this
340 chapter.

341 (6) Notwithstanding s. 253.025(7), the Board of Trustees
342 of the Internal Improvement Trust Fund need not approve a lease-
343 purchase agreement negotiated by the department of ~~of Management~~
344 ~~Services~~ if the department of ~~of Management Services~~ finds that
345 there is a need to expedite the lease-purchase.

346 (7) (a) Notwithstanding s. 253.025 or s. 287.057, whenever
347 the department of ~~of Management Services~~ finds it to be in the best
348 interest of timely site acquisition, it may contract without the
349 need for competitive selection with one or more appraisers whose
350 names are contained on the list of approved appraisers
351 maintained by the Division of State Lands of the Department of
352 Environmental Protection in accordance with s. 253.025(6) (b). In
353 those instances when the department of ~~of Management Services~~
354 directly contracts for appraisal services, it shall also
355 contract with an approved appraiser who is not employed by the
356 same appraisal firm for review services.

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

362 Section 17. Subsection (2) of section 957.06, Florida
 363 Statutes, is amended to read:

364 957.06 Powers and duties not delegable to contractor.—A
 365 contract entered into under this chapter does not authorize,
 366 allow, or imply a delegation of authority to the contractor to:

367 (2) Choose the facility to which an inmate is initially
 368 assigned or subsequently transferred. The contractor may
 369 request, in writing, that an inmate be transferred to a facility
 370 operated by the department. The ~~Department of Management~~
 371 ~~Services, the contractor,~~ and the department shall develop and
 372 implement a cooperative agreement for transferring inmates
 373 between a correctional facility operated by the department and a
 374 private correctional facility. The department, ~~the Department of~~
 375 ~~Management Services,~~ and the contractor must comply with the
 376 cooperative agreement.

377 Section 18. Subsections (1) and (4) and paragraph (d) of
 378 subsection (5) of section 957.07, Florida Statutes, are amended
 379 to read:

380 957.07 Cost-saving requirements.—

381 (1) The department ~~of Management Services~~ may not enter
 382 into a contract or series of contracts unless the department
 383 determines that the contract or series of contracts in total for
 384 the facility will result in a cost savings to the state of at
 385 least 7 percent over the public provision of a similar facility.
 386 Such cost savings as determined by the department ~~of Management~~
 387 ~~Services~~ must be based upon the actual costs associated with the
 388 construction and operation of similar facilities or services as
 389 determined by the department ~~of Corrections~~ and certified by the

390 Auditor General. The department ~~of Corrections~~ shall calculate
 391 all of the cost components that determine the inmate per diem in
 392 correctional facilities of a substantially similar size, type,
 393 and location that are operated by the department ~~of Corrections~~,
 394 including administrative costs associated with central
 395 administration. Services that are provided to the department ~~of~~
 396 ~~Corrections~~ by other governmental agencies at no direct cost to
 397 the department shall be assigned an equivalent cost and included
 398 in the per diem.

399 (4) The department ~~of Corrections~~ shall provide a report
 400 detailing the state cost to design, finance, acquire, lease,
 401 construct, and operate a facility similar to the private
 402 correctional facility on a per diem basis. ~~This report shall be~~
 403 ~~provided to the Auditor General in sufficient time that it may~~
 404 ~~be certified to the Department of Management Services to be~~
 405 ~~included in the request for proposals.~~

406 (5)

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

410 Section 19. Section 957.08, Florida Statutes, is amended
 411 to read:

412 957.08 Capacity requirements.—The department ~~of~~
 413 ~~Corrections~~ shall transfer and assign prisoners to each private
 414 correctional facility opened pursuant to this chapter in an
 415 amount not less than 90 percent or more than 100 percent of the
 416 capacity of the facility pursuant to the contract with the
 417 department ~~of Management Services~~. The prisoners transferred by

CS/HB 5403

2011

418 the department ~~of Corrections~~ shall represent a cross-section of
419 the general inmate population, based on the grade of custody or
420 the offense of conviction, at the most comparable facility
421 operated by the department.

422 Section 20. Section 957.14, Florida Statutes, is amended
423 to read:

424 957.14 Contract termination and control of a correctional
425 facility by the department.—A detailed plan shall be provided by
426 a private vendor under which the department shall assume
427 temporary control of a private correctional facility upon
428 termination of the contract. The department ~~of Management~~
429 ~~Services~~ may terminate the contract with cause after written
430 notice of material deficiencies and after 60 workdays in order
431 to correct the material deficiencies. If any event occurs that
432 involves the noncompliance with or violation of contract terms
433 and that presents a serious threat to the safety, health, or
434 security of the inmates, employees, or the public, the
435 department may temporarily assume control of the private
436 correctional facility, ~~with the approval of the Department of~~
437 ~~Management Services~~. A plan shall also be provided by a private
438 vendor for the purchase and temporary assumption of operations
439 of a correctional facility by the department in the event of
440 bankruptcy or the financial insolvency of the private vendor.
441 The private vendor shall provide an emergency plan to address
442 inmate disturbances, employee work stoppages, strikes, or other
443 serious events in accordance with standards of the American
444 Correctional Association.

445 Section 21. Section 957.15, Florida Statutes, is amended
 446 to read:

447 957.15 Funding of contracts for operation, maintenance,
 448 and lease-purchase of private correctional facilities.—The
 449 request for appropriation of funds to make payments pursuant to
 450 contracts entered into by the department ~~of Management Services~~
 451 for the operation, maintenance, and lease-purchase of the
 452 private correctional facilities authorized by this chapter shall
 453 be made by the ~~Department of Management Services in a request to~~
 454 ~~the~~ department. The department shall include such request in its
 455 budget request to the Legislature as a separately identified
 456 item and ~~shall forward the request of the Department of~~
 457 ~~Management Services without change. After an appropriation has~~
 458 ~~been made by the Legislature to the department for the private~~
 459 ~~correctional facilities, the department shall have no authority~~
 460 ~~over such funds other than to pay from such appropriation to the~~
 461 ~~appropriate private vendor such amounts as are certified for~~
 462 ~~payment by the Department of Management Services.~~

463 Section 22. Section 957.16, Florida Statutes, is amended
 464 to read:

465 957.16 Expanding capacity.—The department ~~of Management~~
 466 ~~Services~~ is authorized to modify and execute agreements with
 467 contractors to expand up to the total capacity of contracted
 468 correctional facilities. Total capacity means the design
 469 capacity of all contracted correctional facilities increased by
 470 one-half as described under s. 944.023(1)(b). Any additional
 471 beds authorized under this section must comply with the cost-
 472 saving requirements set forth in s. 957.07. Any additional beds

CS/HB 5403

2011

473 | authorized as a result of expanded capacity under this section
474 | are contingent upon specified appropriations.

475 | Section 23. This act shall take effect July 1, 2011.