



636484

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: 6/AD/2R

.

03/24/2015 11:57 AM

.

.

Senator Evers moved the following:

1 **Senate Substitute for Amendment (488922) (with title**
2 **amendment)**

3
4 Delete lines 756 - 841

5 and insert:

6 (b)1. An employee of the department, private provider, or
7 private correctional facility who:

8 a. Willfully or by culpable negligence withholds food,
9 water, clothing, shelter, supervision, medicine, or medical
10 services from an inmate that a prudent person would consider
11 essential for the well-being of the inmate; and



636484

12 b. Causes the inmate to suffer great bodily harm, permanent
13 disability, or permanent disfigurement by such action;

14
15 commits a felony of the third degree, punishable as provided in
16 s. 775.082, s. 775.083, or s. 775.084.

17 2. This section does not preclude prosecution for a
18 criminal act under any other law.

19 (c)~~(b)~~1. As used in this paragraph, the term "sexual
20 misconduct" means the oral, anal, or vaginal penetration by, or
21 union with, the sexual organ of another or the anal or vaginal
22 penetration of another by any other object, but does not include
23 an act done for a bona fide medical purpose or an internal
24 search conducted in the lawful performance of the employee's
25 duty.

26 2. Any employee of the department or a private correctional
27 facility as defined in s. 944.710 who engages in sexual
28 misconduct with an inmate or an offender supervised by the
29 department in the community, without committing the crime of
30 sexual battery, commits a felony of the third degree, punishable
31 as provided in s. 775.082, s. 775.083, or s. 775.084.

32 3. The consent of the inmate or offender supervised by the
33 department in the community to any act of sexual misconduct may
34 not be raised as a defense to a prosecution under this
35 paragraph.

36 4. This paragraph does not apply to any employee of the
37 department or any employee of a private correctional facility
38 who is legally married to an inmate or an offender supervised by
39 the department in the community, nor does it apply to any
40 employee who has no knowledge, and would have no reason to



636484

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

44 (d)~~(e)~~ Notwithstanding prosecution, any violation of the
45 provisions of this subsection, as determined by the Public
46 Employees Relations Commission, shall constitute sufficient
47 cause under s. 110.227 for dismissal from employment with the
48 department, and such person shall not again be employed in any
49 capacity in connection with the correctional system.

50 (e)~~(d)~~ Each employee who witnesses, or has reasonable cause
51 to suspect, that an inmate or an offender under the supervision
52 of the department in the community has been unlawfully abused or
53 is the subject of sexual misconduct pursuant to this subsection
54 shall immediately prepare, date, and sign an independent report
55 specifically describing the nature of the force used or the
56 nature of the sexual misconduct, the location and time of the
57 incident, and the persons involved. The report shall be
58 delivered to the inspector general of the department with a copy
59 to be delivered to the warden of the institution or the regional
60 administrator. The inspector general shall immediately conduct
61 an appropriate investigation, and, if probable cause is
62 determined that a violation of this subsection has occurred, the
63 respective state attorney in the circuit in which the incident
64 occurred shall be notified.

65 (f) If an employee of the department, private provider, or
66 private correctional facility who witnesses unlawful abuse or
67 neglect or has reasonable cause to suspect that an inmate has
68 been unlawfully abused or neglected, as prohibited by this
69 section, fears retaliation by coworkers or supervisors if he or



636484

70 she submits a report as provided in this section, the employee
71 may anonymously and confidentially report the inmate abuse or
72 neglect directly to the department's Office of Inspector
73 General.

74

75 ===== T I T L E A M E N D M E N T =====

76 And the title is amended as follows:

77 Delete lines 71 - 75

78 and insert:

79 correctional facilities; creating criminal penalties
80 for employees who willfully or by culpable negligence
81 withhold food and water and other essential services;
82 providing for anonymous reporting of