

FOR CONSIDERATION By the Committee on Criminal Justice

591-01153A-15

20157020pb

1 A bill to be entitled
2 An act relating to corrections; amending s. 216.136,
3 F.S.; requiring the Criminal Justice Estimating
4 Conference to develop projections of prison admissions
5 and populations for elderly felony offenders; amending
6 s. 944.151, F.S.; expanding the department's security
7 review committee functions; amending s. 944.275, F.S.;
8 prohibiting an inmate from receiving incentive gain-
9 time credits for completing the requirements for and
10 receiving a general educational development
11 certificate or vocational certificate if the inmate
12 was convicted of a specified offense on or after a
13 specified date; amending s. 944.31, F.S.; requiring
14 that a copy of a written memorandum of understanding
15 for notification and investigation of certain events
16 between the Department of Corrections and the
17 Department of Law Enforcement be provided in a timely
18 manner to the Governor, the President of the Senate,
19 and the Speaker of the House of Representatives;
20 requiring specialized training in certain
21 circumstances; amending s. 944.331, F.S.; requiring
22 the Department of Corrections to provide multiple
23 private, internal avenues for the reporting by inmates
24 of sexual abuse and sexual harassment; requiring the
25 department, in consultation with the Correctional
26 Medical Authority, to review inmate grievance
27 procedures at each correctional institution and
28 private correctional facility; amending s. 944.35,
29 F.S.; requiring that correctional officers have

591-01153A-15

20157020pb

30 specialized training in the effective, nonforceful
31 management of mentally ill inmates who may exhibit
32 erratic behavior; requiring each institution to create
33 and maintain a system to track the use of force
34 episodes to determine if inmates need subsequent
35 physical or mental health treatment; requiring annual
36 reporting of use of force on the agency website;
37 requiring that reports of physical force be signed
38 under oath; prohibiting employees with notations
39 regarding incidents involving the inappropriate use of
40 force from working in close proximity with mentally
41 ill inmates; providing an exception; expanding
42 applicability of a current felony offense to include
43 certain employees of private health care providers and
44 private correctional facilities; defining the term
45 "neglect of an inmate"; providing for the
46 determination of neglect of an inmate; creating
47 criminal penalties for certain employees who neglect
48 an inmate in specified circumstances; providing for
49 anonymous reporting of inmate abuse directly to the
50 department's Office of Inspector General; requiring
51 that instruction on communication techniques related
52 to crisis stabilization to avoid use of force be
53 included in the correctional officer training program;
54 directing the department to establish policies to
55 protect inmates and employees from retaliation;
56 requiring certain monitoring of the conduct and
57 treatment of inmates; amending s. 944.8041, F.S.;

58 requiring the department to report health care costs

591-01153A-15

20157020pb

59 for elderly inmates in its annual report; creating s.
60 944.805, F.S.; providing legislative intent relating
61 to specialized programs for veterans; requiring the
62 department to measure recidivism and report its
63 finding in that regard; amending s. 945.215, F.S.;
64 requiring that specified proceeds and certain funds be
65 deposited in the State Operated Institutions Inmate
66 Welfare Trust Fund; providing that the State Operated
67 Institutions Inmate Welfare Trust Fund is a trust held
68 by the Department of Corrections for the benefit and
69 welfare of certain inmates; prohibiting deposits into
70 the trust fund from exceeding \$10 million per fiscal
71 year; requiring that deposits in excess of that amount
72 be deposited into the General Revenue Fund; requiring
73 that funds of the trust fund be used exclusively for
74 specified purposes at correctional facilities operated
75 by the department; requiring that funds from the trust
76 fund only be expended pursuant to legislative
77 appropriations; requiring the department to annually
78 compile a report, at the statewide and institutional
79 level documenting trust fund receipts and
80 expenditures; requiring the report be submitted by
81 September 1 for the previous fiscal year to specified
82 offices of the Legislature and to the Executive Office
83 of the Governor; providing a contingent effective
84 date; amending s. 945.48, F.S.; specifying
85 correctional officer staffing requirements pertaining
86 to inmates housed in mental health treatment
87 facilities; amending s. 945.6031, F.S.; changing the

591-01153A-15

20157020pb

88 frequency of required surveys; amending s. 945.6034,
89 F.S.; requiring the department to consider the needs
90 of inmates over 50 years of age and adopt health care
91 standards for that population; amending s. 947.149,
92 F.S.; defining the term "elderly and infirm inmate";
93 expanding eligibility for conditional medical release
94 to include elderly and infirm inmates; amending ss.
95 921.0021 and 951.221. F.S.; conforming cross-
96 references to changes made by the act; reenacting ss.
97 435.04(2)(uu) and 921.0022(3)(f), F.S., to incorporate
98 the amendment made to s. 944.35, F.S., in references
99 thereto; reenacting ss. 944.72(1), 945.21501(1), and
100 945.2151, F.S., to incorporate the amendment made to
101 s. 945.215, F.S., in references thereto; reenacting s.
102 945.6035(6), F.S., to incorporate the amendment made
103 to s. 945.6031, F.S., in a reference thereto;
104 providing effective dates.

105
106 Be It Enacted by the Legislature of the State of Florida:

107
108 Section 1. Paragraph (d) is added to subsection (5) of
109 section 216.136, Florida Statutes, to read:

110 216.136 Consensus estimating conferences; duties and
111 principals.—

112 (5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.—The Criminal
113 Justice Estimating Conference shall:

114 (d) Develop projections of prison admissions and
115 populations for elderly felony offenders.

116 Section 2. Section 944.151, Florida Statutes, is amended to

591-01153A-15

20157020pb

117 read:

118 944.151 Safety and security of correctional institutions
119 and facilities.—It is the intent of the Legislature that the
120 Department of Corrections shall be responsible for the safe
121 operation and security of the correctional institutions and
122 facilities. The safe operation and security of the state's
123 correctional institutions and facilities is critical to ensure
124 public safety and the safety of department employees and
125 offenders and to contain violent and chronic offenders until
126 offenders are otherwise released from the department's custody
127 pursuant to law. The Secretary of Corrections shall, at a
128 minimum:

129 (1) Appoint a safety and security review committee which
130 shall, at a minimum, be composed of: the inspector general, the
131 statewide safety and security coordinator, the regional safety
132 and security coordinators, ~~and~~ three wardens, and one
133 correctional officer. The safety and security review committee
134 shall:

135 (a) Establish a periodic schedule for the physical
136 inspection of buildings and structures of each state and private
137 correctional institution to determine safety and security
138 deficiencies. In scheduling the inspections, priority shall be
139 given to older institutions, institutions that house a large
140 proportion of violent offenders, institutions with a high level
141 of substantiated or unsubstantiated incidents of use of force on
142 inmates, assaults on employees, or inmate sexual abuse, and
143 institutions that have experienced a significant number of
144 escapes or escape attempts in the past.

145 (b) Conduct or cause to be conducted announced and

591-01153A-15

20157020pb

146 unannounced comprehensive safety and security audits of all
147 state and private correctional institutions. In conducting such
148 ~~the security~~ audits, priority shall be given to older
149 institutions, institutions that house a large proportion of
150 violent offenders, institutions with a high level of
151 substantiated or unsubstantiated incidents of use of force on
152 inmates, assaults on employees, or inmate sexual abuse, and
153 institutions that have experienced a history of escapes or
154 escape attempts. At a minimum, the audit shall include an
155 evaluation of the physical plant, which shall include the
156 identification of blind spots or areas where staff or inmates
157 may be isolated and the deployment of video monitoring systems
158 and other monitoring technologies in such areas, landscaping,
159 fencing, security alarms and perimeter lighting, and inmate
160 classification and staffing policies. Each correctional
161 institution shall be audited at least annually. The secretary
162 shall report the general survey findings annually to the
163 Governor and the Legislature.

164 (c) Adopt and enforce minimum safety and security standards
165 and policies that include, but are not limited to:

- 166 1. Random monitoring of outgoing telephone calls by
167 inmates.
- 168 2. Maintenance of current photographs of all inmates.
- 169 3. Daily inmate counts at varied intervals.
- 170 4. Use of canine units, where appropriate.
- 171 5. Use of escape alarms and perimeter lighting.
- 172 6. Florida Crime Information Center/National Crime
173 Information Center capabilities.
- 174 7. Employment background investigations.

591-01153A-15

20157020pb

175 (d) Annually make written prioritized budget
176 recommendations to the secretary which ~~that~~ identify critical
177 safety and security deficiencies at major correctional
178 institutions.

179 (e) Investigate and evaluate the usefulness and
180 dependability of existing safety and security technology at the
181 institutions and new technology and video monitoring systems
182 available and make periodic written recommendations to the
183 secretary on the discontinuation or purchase of various security
184 devices.

185 (f) Contract, if ~~deemed~~ necessary, with security personnel,
186 consulting engineers, architects, or other security experts the
187 committee determines are ~~deems~~ necessary for safety and security
188 audits and safety and security consultant services.

189 (g) Establish a periodic schedule for conducting announced
190 and unannounced escape simulation drills.

191 (2) Maintain and produce quarterly reports with accurate
192 escape statistics. For the purposes of these reports, "escape"
193 includes all possible types of escape, regardless of prosecution
194 by the state attorney, and including offenders who walk away
195 from nonsecure community facilities.

196 (3) Adopt, enforce, and annually evaluate the emergency
197 escape response procedures, which shall at a minimum include the
198 immediate notification and inclusion of local and state law
199 enforcement through a mutual aid agreement.

200 (4) Submit in the annual legislative budget request a
201 prioritized summary of critical repair and renovation security
202 needs.

203 Section 3. Paragraphs (d) and (e) of subsection (4) of

591-01153A-15

20157020pb

204 section 944.275, Florida Statutes, are amended to read:

205 944.275 Gain-time.—

206 (4)

207 (d) Notwithstanding paragraph (b) subparagraphs (b)1. and
208 2., the education program manager shall recommend, and the
209 Department of Corrections may grant, a one-time award of 60
210 additional days of incentive gain-time to an inmate who is
211 otherwise eligible and who successfully completes requirements
212 for and is awarded a high school equivalency diploma or
213 vocational certificate. This incentive gain-time award may be
214 granted to reduce any sentence for an offense committed on or
215 after October 1, 1995. However, this gain-time may not be
216 granted to reduce any sentence for an offense committed on or
217 after October 1, 1995, if the inmate is, or has previously been,
218 convicted of a violation of s. 794.011, s. 794.05, former s.
219 796.03, former s. 796.035, s. 800.04, s. 825.1025, s. 827.03, s.
220 827.071, s. 847.0133, s. 847.0135, s. 847.0137, s. 847.0138, s.
221 847.0145, or s. 985.701(1), or a forcible felony offense that is
222 specified in s. 776.08, except burglary as specified in s.
223 810.02(4). An inmate subject to the 85 percent minimum service
224 requirement pursuant to subparagraph (b)3. may not accumulate
225 gain-time awards at any point when the tentative release date is
226 the same as the 85 percent minimum service date of the sentence
227 imposed. Under no circumstances may an inmate receive more than
228 60 days for educational attainment pursuant to this section.

229 (e) Notwithstanding subparagraph (b)3. and paragraph (d),
230 for sentences imposed for offenses committed on or after October
231 1, 2014, the department may not grant incentive gain-time if the
232 offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2.

591-01153A-15

20157020pb

233 or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s.
234 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

235 Section 4. Section 944.31, Florida Statutes, is amended to
236 read:

237 944.31 Inspector general; inspectors; power and duties.—

238 (1) The inspector general shall be responsible for prison
239 inspection and investigation, internal affairs investigations,
240 and management reviews. The office of the inspector general
241 shall be charged with the duty of inspecting the penal and
242 correctional systems of the state. The office of the inspector
243 general shall inspect each correctional institution or any place
244 in which state prisoners are housed, worked, or kept within the
245 state, with reference to its physical conditions, cleanliness,
246 sanitation, safety, and comfort; the quality and supply of all
247 bedding; the quality, quantity, and diversity of food served and
248 the manner in which it is served; the number and condition of
249 the prisoners confined therein; and the general conditions of
250 each institution. The office of inspector general shall see that
251 all the rules and regulations issued by the department are
252 strictly observed and followed by all persons connected with the
253 correctional systems of the state. The office of the inspector
254 general shall coordinate and supervise the work of inspectors
255 throughout the state. The inspector general and inspectors may
256 enter any place where prisoners in this state are kept and shall
257 be immediately admitted to such place as they desire and may
258 consult and confer with any prisoner privately and without
259 molestation. The inspector general and inspectors shall be
260 responsible for criminal and administrative investigation of
261 matters relating to the Department of Corrections. The secretary

591-01153A-15

20157020pb

262 may designate persons within the office of the inspector general
263 as law enforcement officers to conduct any criminal
264 investigation that occurs on property owned or leased by the
265 department or involves matters over which the department has
266 jurisdiction. A person designated as a law enforcement officer
267 must be certified pursuant to s. 943.1395 and must have a
268 minimum of 3 years' experience as an inspector in the inspector
269 general's office or as a law enforcement officer.

270 (2) The department shall maintain a written memorandum of
271 understanding with the Department of Law Enforcement for the
272 notification and investigation of mutually agreed-upon predicate
273 events that shall include, but are not limited to, suspicious
274 deaths and organized criminal activity. A copy of an active
275 memorandum of understanding shall be provided in a timely manner
276 to the Governor, the President of the Senate, and the Speaker of
277 the House of Representatives.

278 (3) During investigations, the inspector general and
279 inspectors may consult and confer with any prisoner or staff
280 member privately and without molestation and persons designated
281 as law enforcement officers under this section shall have the
282 authority to arrest, with or without a warrant, any prisoner of
283 or visitor to a state correctional institution for a violation
284 of the criminal laws of the state involving an offense
285 classified as a felony that occurs on property owned or leased
286 by the department and may arrest offenders who have escaped or
287 absconded from custody. Persons designated as law enforcement
288 officers have the authority to arrest with or without a warrant
289 a staff member of the department, including any contract
290 employee, for a violation of the criminal laws of the state

591-01153A-15

20157020pb

291 involving an offense classified as a felony under this chapter
292 or chapter 893 on property owned or leased by the department. A
293 person designated as a law enforcement officer under this
294 section may make arrests of persons against whom arrest warrants
295 have been issued, including arrests of offenders who have
296 escaped or absconded from custody. The arrested person shall be
297 surrendered without delay to the sheriff of the county in which
298 the arrest is made, with a formal complaint subsequently made
299 against her or him in accordance with law.

300 (4) The inspector general, and inspectors who conduct
301 sexual abuse investigations in confinement settings, shall
302 receive specialized training in conducting such investigations.
303 Specialized training shall include, but need not be limited to,
304 techniques for interviewing sexual abuse victims, proper use of
305 Miranda and Garrity warnings, sexual abuse evidence collection
306 in confinement settings, and the criteria and evidence required
307 to substantiate a case for administrative action or prosecution.

308 Section 5. Section 944.331, Florida Statutes, is amended to
309 read:

310 944.331 Inmate grievance procedure.—

311 (1) The department shall establish by rule an inmate
312 grievance procedure, which ~~that~~ must conform to the Minimum
313 Standards for Inmate Grievance Procedures as promulgated by the
314 United States Department of Justice pursuant to 42 U.S.C. s.
315 1997e. The department's office of general counsel shall oversee
316 the grievance procedures established by the department.

317 (2) In establishing grievance procedures, the department
318 shall provide multiple internal avenues for inmates to privately
319 report sexual abuse and sexual harassment and any staff neglect

591-01153A-15

20157020pb

320 of, or failure to perform, responsibilities which may have
321 contributed to such incidents. The procedures must allow reports
322 to be made orally, in writing, anonymously, or by third parties,
323 and must require that any oral report be promptly documented in
324 writing by the department or its designee.

325 (3) The department, in consultation with the Correctional
326 Medical Authority, shall review inmate grievance procedures at
327 each correctional institution and private correctional facility
328 to determine the procedural soundness and effectiveness of the
329 current grievance process, to identify employees prone to
330 misconduct, and to identify life-threatening inmate health and
331 safety concerns. The review shall determine whether grievances
332 are being properly reported, transmitted, and processed; inmates
333 are allowed writing utensils and paper; multiple channels of
334 communication exist to report alleged abuse; and protocols are
335 being implemented to protect an inmate who filed a grievance
336 from retaliation for filing a complaint alleging staff
337 misconduct.

338 (4) Beginning October 1, 2016, the department and the
339 Correctional Medical Authority shall annually report, and post
340 to their respective websites, their joint findings. The
341 authority shall document in the report its findings on the
342 effectiveness of inmate grievance procedures; cite the number of
343 grievances filed by inmates, by institution and by region;
344 specify the types of problems alleged by inmates; and summarize
345 the actions taken by the department or the authority as a result
346 of its investigation of inmate grievances.

347 Section 6. Section 944.35, Florida Statutes, is amended to
348 read:

591-01153A-15

20157020pb

349 944.35 Authorized use of force; malicious battery and
350 sexual misconduct prohibited; reporting required; penalties.—

351 (1) (a) An employee of the department is authorized to apply
352 physical force upon an inmate only when and to the extent that
353 it reasonably appears necessary:

354 1. To defend himself or herself or another against such
355 other imminent use of unlawful force;

356 2. To prevent a person from escaping from a state
357 correctional institution when the officer reasonably believes
358 that person is lawfully detained in such institution;

359 3. To prevent damage to property;

360 4. To quell a disturbance;

361 5. To overcome physical resistance to a lawful command; or

362 6. To administer medical treatment only by or under the
363 supervision of a physician or his or her designee and only:

364 a. When treatment is necessary to protect the health of
365 other persons, as in the case of contagious or venereal
366 diseases; or

367 b. When treatment is offered in satisfaction of a duty to
368 protect the inmate against self-inflicted injury or death.

369

370 As part of the correctional officer training program, the
371 Criminal Justice Standards and Training Commission shall develop
372 a course specifically designed to explain the parameters of this
373 subsection and to teach the proper methods and techniques in
374 applying authorized physical force upon an inmate. This course
375 shall include specialized training for effectively managing in
376 nonforceful ways mentally ill inmates who may exhibit erratic
377 behavior.

591-01153A-15

20157020pb

378 (b) Following any use of force, a qualified health care
379 provider shall examine any person physically involved to
380 determine the extent of injury, if any, and shall prepare a
381 report which shall include, but not be limited to, a statement
382 of whether further examination by a physician is necessary. Any
383 noticeable physical injury shall be examined by a physician, and
384 the physician shall prepare a report documenting the extent and
385 probable cause of the injury and the treatment prescribed. Such
386 report shall be completed within 5 working days of the incident
387 and shall be submitted to the warden for appropriate
388 investigation.

389 (c) Each institution shall create and maintain a system to
390 track episodes involving the use of force to determine if
391 inmates require subsequent physical or mental health treatment.

392 (d) No later than October 1 of each year, the department
393 shall post on the agency website a report documenting incidents
394 involving the use of force during the previous fiscal year. The
395 report shall include, but not be limited to:

396 1. Descriptive statistics on the reason force was used and
397 whether the use of force was deemed appropriate;

398 2. Multi-year statistics documenting annual trends in the
399 use of force;

400 3. Information on the level of inmate or officer injury,
401 including death, in incidents involving the use of force;

402 4. A breakdown, by institution, of statistics on use of
403 force; and

404 5. Statistics on the number of employees who were
405 disciplined or terminated because of their involvement in
406 incidents involving the inappropriate use of force, based on

591-01153A-15

20157020pb

407 notations of such incidents in their personnel files.

408 (2) Each employee of the department who either applies
409 physical force or was responsible for making the decision to
410 apply physical force upon an inmate or an offender supervised by
411 the department in the community pursuant to this subsection
412 shall prepare, date, and sign under oath an independent report
413 within 1 working day of the incident. The report shall be
414 delivered to the warden or the circuit administrator, who shall
415 forward the report with all appropriate documentation to the
416 office of the inspector general. The inspector general shall
417 conduct a review and make recommendations regarding the
418 appropriateness or inappropriateness of the use of force. If the
419 inspector general finds that the use of force was appropriate,
420 the employee's report, together with the inspector general's
421 written determination of the appropriateness of the force used
422 and the reasons therefor, shall be forwarded to the circuit
423 administrator or warden upon completion of the review. If the
424 inspector general finds that the use of force was inappropriate,
425 the inspector general shall conduct a complete investigation
426 into the incident and forward the findings of fact to the
427 appropriate regional director for further action. Copies of the
428 employee's report and the inspector general's review shall be
429 kept in the files of the inmate or the offender supervised by
430 the department in the community. A notation of each incident
431 involving use of force and the outcome based on the inspector
432 general's evaluation shall be kept in the employee's file. An
433 employee with two or more notations in the employee's file
434 related to incidents involving the inappropriate use of force
435 may not work in close proximity with mentally ill inmates or

591-01153A-15

20157020pb

436 inmates on psychotropic medications. However, an employee with
437 two or more notations in the employee's file who remains
438 incident free for a significant period may be permitted to work
439 with mentally ill inmates or inmates on psychotropic
440 medications.

441 (3) (a) 1. Any employee of the department, private health
442 care provider, or private correctional facility who, with
443 malicious intent, commits a battery upon an inmate or an
444 offender supervised by the department in the community, commits
445 a misdemeanor of the first degree, punishable as provided in s.
446 775.082 or s. 775.083.

447 2. Any employee of the department, private health care
448 provider, or private correctional facility who, with malicious
449 intent, commits a battery or inflicts cruel or inhuman treatment
450 by neglect or otherwise, and in so doing causes great bodily
451 harm, permanent disability, or permanent disfigurement to an
452 inmate or an offender supervised by the department in the
453 community, commits a felony of the third degree, punishable as
454 provided in s. 775.082, s. 775.083, or s. 775.084.

455 (b) As used in this paragraph, the term "neglect of an
456 inmate" means:

457 1. A failure or omission on the part of an employee of the
458 department, private health care provider, or private
459 correctional facility, to:

460 a. Provide an inmate with the care, supervision, and
461 services necessary to maintain the inmate's physical and mental
462 health, including, but not limited to, food, nutrition,
463 clothing, shelter, supervision, medicine, and medical services
464 that a prudent person would consider essential for the well-

591-01153A-15

20157020pb

465 being of the inmate; or

466 b. Make a reasonable effort to protect an inmate from
467 abuse, neglect, or exploitation by another person.

468 2. A determination of neglect of an inmate may be based on
469 repeated conduct or on a single incident or omission that
470 results in, or could reasonably be expected to result in,
471 serious physical or psychological injury, or a substantial risk
472 of death, to an inmate.

473 3. An employee of the department, private health care
474 provider, or private correctional facility who willfully or by
475 culpable negligence neglects an inmate and in so doing causes
476 great bodily harm, permanent disability, or permanent
477 disfigurement to the inmate commits a felony of the second
478 degree, punishable as provided in s. 775.082, s. 775.083, or s.
479 775.084.

480 4. Any employee of the department, private health care
481 provider, or private correctional facility who willfully or by
482 culpable negligence neglects an elderly or disabled inmate
483 without causing great bodily harm, permanent disability, or
484 permanent disfigurement to the inmate commits a felony of the
485 third degree, punishable as provided in s. 775.082, s. 775.083,
486 or s. 775.084.

487 (c) ~~(b)~~1. As used in this paragraph, the term "sexual
488 misconduct" means the oral, anal, or vaginal penetration by, or
489 union with, the sexual organ of another or the anal or vaginal
490 penetration of another by any other object, but does not include
491 an act done for a bona fide medical purpose or an internal
492 search conducted in the lawful performance of the employee's
493 duty.

591-01153A-15

20157020pb

494 2. Any employee of the department or a private correctional
495 facility as defined in s. 944.710 who engages in sexual
496 misconduct with an inmate or an offender supervised by the
497 department in the community, without committing the crime of
498 sexual battery, commits a felony of the third degree, punishable
499 as provided in s. 775.082, s. 775.083, or s. 775.084.

500 3. The consent of the inmate or offender supervised by the
501 department in the community to any act of sexual misconduct may
502 not be raised as a defense to a prosecution under this
503 paragraph.

504 4. This paragraph does not apply to any employee of the
505 department or any employee of a private correctional facility
506 who is legally married to an inmate or an offender supervised by
507 the department in the community, nor does it apply to any
508 employee who has no knowledge, and would have no reason to
509 believe, that the person with whom the employee has engaged in
510 sexual misconduct is an inmate or an offender under community
511 supervision of the department.

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

518 (e)~~(d)~~ Each employee who witnesses, or has reasonable cause
519 to suspect, that an inmate or an offender under the supervision
520 of the department in the community has been unlawfully abused or
521 is the subject of sexual misconduct pursuant to this subsection
522 shall immediately prepare, date, and sign an independent report

591-01153A-15

20157020pb

523 specifically describing the nature of the force used or the
524 nature of the sexual misconduct, the location and time of the
525 incident, and the persons involved. The report shall be
526 delivered to the inspector general of the department with a copy
527 to be delivered to the warden of the institution or the regional
528 administrator. The inspector general shall immediately conduct
529 an appropriate investigation, and, if probable cause is
530 determined that a violation of this subsection has occurred, the
531 respective state attorney in the circuit in which the incident
532 occurred shall be notified.

533 (f) If an employee of the department, private health care
534 provider, or private correctional facility who witnesses
535 unlawful abuse or neglect or has reasonable cause to suspect
536 that an inmate has been unlawfully abused or neglected, as the
537 term "neglected" is defined in paragraph (b), fears retaliation
538 by coworkers or supervisors if he or she submits a report as
539 provided in paragraph (e), the employee may anonymously and
540 confidentially report the inmate abuse or neglect directly to
541 the department's Office of Inspector General.

542 (4) (a) Any employee required to report pursuant to this
543 section who knowingly or willfully fails to do so, or who
544 knowingly or willfully prevents another person from doing so,
545 commits a misdemeanor of the first degree, punishable as
546 provided in s. 775.082 or s. 775.083.

547 (b) Any person who knowingly or willfully submits
548 inaccurate, incomplete, or untruthful information with regard to
549 reports required in this section commits a misdemeanor of the
550 first degree, punishable as provided in s. 775.082 or s.
551 775.083.

591-01153A-15

20157020pb

552 (c) Any person who knowingly or willfully coerces or
553 threatens any other person with the intent to alter either
554 testimony or a written report regarding an incident where force
555 was used or an incident of sexual misconduct commits a felony of
556 the third degree, punishable as provided in s. 775.082, s.
557 775.083, or s. 775.084.

558
559 As part of the correctional officer training program, the
560 Criminal Justice Standards and Training Commission shall develop
561 course materials for inclusion in the appropriate required
562 course specifically designed to explain the parameters of this
563 subsection, teach communication techniques related to crisis
564 stabilization to avoid the use of force, and ~~to~~ teach sexual
565 assault identification and prevention methods and techniques.

566 (5) The department shall establish a policy to protect from
567 retaliation inmates and employees who report physical or sexual
568 abuse or who cooperate with investigations. This policy shall
569 protect inmates and employees from retaliation by other inmates
570 or employees. As part of this policy, the department shall:

571 (a) Designate the employees who are charged with monitoring
572 suspected acts of retaliation.

573 (b) Include multiple protection measures, such as housing
574 changes or transfers for inmate victims or abusers, removal of
575 alleged abusive employees or alleged abusive inmates from
576 contact with victims, and services for employees who fear
577 retaliation for reporting abuse or for cooperating with
578 investigations.

579 (c) For at least 90 days following a report of physical or
580 sexual abuse, monitor the conduct and treatment of inmates and

591-01153A-15

20157020pb

581 employees who reported the abuse and of inmates who were
582 reported to have suffered abuse to determine if there are
583 changes that may suggest possible retaliation by inmates or
584 employees. The department shall act promptly to remedy any such
585 retaliation. In the course of such monitoring, the department
586 may review inmate disciplinary reports or housing or program
587 changes, and any negative performance review or reassignment of
588 employees. The department shall continue such monitoring beyond
589 90 days if the initial monitoring indicates the need for
590 extended monitoring. The department's obligation to continue the
591 monitoring terminates if the department determines that the
592 allegation that prompted the monitoring is unfounded.

593 Section 7. Section 944.8041, Florida Statutes, is amended
594 to read:

595 944.8041 Elderly offenders; annual review.-

596 (1) For the purpose of providing information to the
597 Legislature on elderly offenders within the correctional system,
598 the department and the Correctional Medical Authority shall each
599 submit annually a report on the status and treatment of elderly
600 offenders in the state-administered and private state
601 correctional systems and the department's geriatric facilities
602 and dorms. In order to adequately prepare the reports, the
603 department and the Department of Management Services shall grant
604 access to the Correctional Medical Authority that includes
605 access to the facilities, offenders, and any information the
606 agencies require to complete their reports. The review shall
607 also include an examination of promising geriatric policies,
608 practices, and programs currently implemented in other
609 correctional systems within the United States. The reports, with

591-01153A-15

20157020pb

610 specific findings and recommendations for implementation, shall
611 be submitted to the President of the Senate and the Speaker of
612 the House of Representatives on or before December 31 of each
613 year.

614 (2) The department, in producing the annual report required
615 under s. 20.315, shall report the cost of health care provided
616 to elderly inmates. The report shall include, but need not be
617 limited to, the average cost per year to incarcerate an elderly
618 inmate and the types of health care delivered to elderly inmates
619 which result in the highest expenditures.

620 Section 8. Section 944.805, Florida Statutes, is created to
621 read:

622 944.805 Veterans programs in state and private correctional
623 institutions.-

624 (1) The Legislature finds and declares that specialized
625 programs for veterans offered in state and private correctional
626 institutions have the potential to facilitate inmate
627 institutional adjustment, help inmates assume personal
628 responsibility, and ease community reentry through the
629 availability of expanded community resources. For the purposes
630 of this section, the term "veteran" has the same meaning as it
631 is defined in s. 1.01(14).

632 (2) It is the intent of the Legislature that the department
633 expand the use of specialized dormitories for veterans. It is
634 also the intent of the Legislature that veterans housed in state
635 and private correctional institutions be provided special
636 assistance before their release by identifying benefits and
637 services available in the community where the veteran plans to
638 reside.

591-01153A-15

20157020pb

639 (3) The department shall measure recidivism rates for
640 veterans who have participated in specialized dormitories and
641 for veterans who have received special assistance in community
642 reentry. The findings shall be included in the annual report
643 required under s. 20.315.

644 Section 9. Effective upon SB ___ or similar legislation
645 creating the "State Operated Institutions Inmate Welfare Trust
646 Fund" being adopted in the 2015 Regular Session or an extension
647 thereof and becoming law, subsection (1) of section 945.215,
648 Florida Statutes, is amended, present subsections (2) and (3)
649 are redesignated as subsections (3) and (4), respectively, and a
650 new subsection (2) is added to that section to read:

651 945.215 Inmate welfare and employee benefit trust funds.—

652 (1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS; STATE
653 OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.—

654 (a) From the net proceeds from operating inmate canteens,
655 vending machines used primarily by inmates and visitors, hobby
656 shops, and other such facilities must be deposited in the State
657 Operated Institutions Inmate Welfare Trust Fund or in the
658 General Revenue Fund; however, funds necessary to purchase items
659 for resale at inmate canteens and vending machines must be
660 deposited into local bank accounts designated by the department.

661 (b) All proceeds from contracted telephone commissions must
662 be deposited in the State Operated Institutions Inmate Welfare
663 Trust Fund or in the General Revenue Fund. The department shall
664 develop and update, as necessary, administrative procedures to
665 verify that:

666 1. Contracted telephone companies accurately record and
667 report all telephone calls made by inmates incarcerated in

591-01153A-15

20157020pb

668 correctional facilities under the department's jurisdiction;

669 2. Persons who accept collect calls from inmates are
670 charged the contracted rate; and

671 3. The department receives the contracted telephone
672 commissions.

673 (c) Any funds that may be assigned by inmates or donated to
674 the department by the general public or an inmate service
675 organization must be deposited in the State Operated
676 Institutions Inmate Welfare Trust Fund or in the General Revenue
677 Fund; however, the department shall not accept any donation
678 from, or on behalf of, any individual inmate.

679 (d) All proceeds from the following sources must be
680 deposited in the State Operated Institutions Inmate Welfare
681 Trust Fund or in the General Revenue Fund:

682 1. The confiscation and liquidation of any contraband found
683 upon, or in the possession of, any inmate;

684 2. Disciplinary fines imposed against inmates;

685 3. Forfeitures of inmate earnings; and

686 4. Unexpended balances in individual inmate trust fund
687 accounts of less than \$1.

688 (e) Items for resale at inmate canteens and vending
689 machines maintained at the correctional facilities shall be
690 priced comparatively with like items for retail sale at fair
691 market prices.

692 (f) Notwithstanding any other provision of law, inmates
693 with sufficient balances in their individual inmate bank trust
694 fund accounts, after all debts against the account are
695 satisfied, shall be allowed to request a weekly draw of up to an
696 amount set by the Secretary of Corrections, not to exceed \$100,

591-01153A-15

20157020pb

697 to be expended for personal use on canteen and vending machine
698 items.

699 (2) (a) The State Operated Institutions Inmate Welfare Trust
700 Fund constitutes a trust held by the department for the benefit
701 and welfare of inmates incarcerated in correctional facilities
702 operated directly by the department.

703 (b) Deposits into the State Operated Institutions Inmate
704 Welfare Trust Fund shall not exceed \$10 million in any fiscal
705 year. Deposits for purchases pursuant to this section in excess
706 of \$10 million shall be deposited into the General Revenue Fund.

707 (c) Funds in the State Operated Institutions Inmate Welfare
708 Trust Fund shall be used exclusively for the following purposes
709 at correctional facilities operated by the department:

710 1. To provide literacy programs, vocational training
711 programs, and educational programs;

712 2. To operate inmate chapels, faith-based programs,
713 visiting pavilions, visiting services and programs, family
714 services and programs, and libraries;

715 3. To provide inmate substance abuse treatment programs and
716 transition and life skills training programs;

717 4. To provide for the purchase, rental, maintenance or
718 repair of electronic or audio visual equipment used by inmates;
719 or

720 5. To provide for the purchase, rental, maintenance or
721 repair of recreation and wellness equipment.

722 (d) Funds in the State Operated Institutions Inmate Welfare
723 Trust Fund shall be expended only pursuant to legislative
724 appropriation.

725 (e) The department shall annually compile a report that

591-01153A-15

20157020pb

726 specifically documents State Operated Institutions Inmate
727 Welfare Trust Fund receipts and expenditures. This report shall
728 be compiled at both the statewide and institutional levels. The
729 department must submit this report for the previous fiscal year
730 by September 1 of each year to the chairs of the appropriate
731 substantive and fiscal committees of the Senate and the House of
732 Representatives and to the Executive Office of the Governor.

733 Section 10. Subsection (7) is added to section 945.48,
734 Florida Statutes, to read:

735 945.48 Rights of inmates provided mental health treatment;
736 procedure for involuntary treatment; correctional officer
737 staffing requirements.—

738 (7) CORRECTIONAL OFFICER STAFFING.—A correctional officer
739 who has close contact with inmates housed in a mental health
740 treatment facility shall annually complete training in crisis
741 intervention. A correctional officer whose personnel file
742 includes two or more notations of his or her involvement in an
743 incident involving use of force, as specified in s. 944.35, may
744 not work in close contact with mentally ill inmates or inmates
745 on psychotropic medications. However, a correctional officer
746 with two or more notations in the employee's file who remains
747 incident free for a significant period may be permitted to work
748 with mentally ill inmates or inmates on psychotropic
749 medications.

750 Section 11. Subsection (2) of section 945.6031, Florida
751 Statutes, is amended to read:

752 945.6031 Required reports and surveys.—

753 (2) The authority shall conduct surveys of the physical and
754 mental health care system at each correctional institution at

591-01153A-15

20157020pb

755 least every 18 months ~~triennially~~ and shall report the survey
756 findings for each institution to the Secretary of Corrections.

757 Section 12. Subsection (1) of section 945.6034, Florida
758 Statutes, is amended to read:

759 945.6034 Minimum health care standards.—

760 (1) The Assistant Secretary for Health Services is
761 responsible for developing a comprehensive health care delivery
762 system and promulgating all department health care standards.
763 Such health care standards shall include, but are not limited
764 to, rules relating to the management structure of the health
765 care system and the provision of health care services to
766 inmates, health care policies, health care plans, quality
767 management systems and procedures, health service bulletins, and
768 treatment protocols. In establishing standards of care, the
769 department shall examine and consider the needs of inmates over
770 50 years of age and adopt health care standards unique to this
771 population.

772 Section 13. Present paragraphs (a) and (b) of subsection
773 (1) of section 947.149, Florida Statutes, are redesignated as
774 paragraphs (b) and (c), respectively, and a new paragraph (a) is
775 added to that subsection, to read:

776 947.149 Conditional medical release.—

777 (1) The commission shall, in conjunction with the
778 department, establish the conditional medical release program.
779 An inmate is eligible for consideration for release under the
780 conditional medical release program when the inmate, because of
781 an existing medical or physical condition, is determined by the
782 department to be within one of the following designations:

783 (a) "Elderly and infirm inmate," which means an inmate who

591-01153A-15

20157020pb

784 has no current or prior convictions for capital or first degree
785 felonies, who has no current or prior convictions for sexual
786 offenses or offenses against children, who is over 70 years of
787 age, and who has a condition caused by injury, disease, or
788 illness which, to a reasonable degree of medical certainty,
789 renders the inmate infirm or physically impaired to the extent
790 that the inmate does not constitute a danger to himself or
791 herself or others.

792 Section 14. Paragraph (c) of subsection (7) of section
793 921.0021, Florida Statutes, is amended to read:

794 921.0021 Definitions.—As used in this chapter, for any
795 felony offense, except any capital felony, committed on or after
796 October 1, 1998, the term:

797 (7)

798 (c) The sentence points provided under s. 921.0024 for
799 sexual contact or sexual penetration may not be assessed for a
800 violation of s. 944.35(3)(c)2. ~~s. 944.35(3)(b)2.~~

801 Section 15. Subsection (1) of section 951.221, Florida
802 Statutes, is amended to read:

803 951.221 Sexual misconduct between detention facility
804 employees and inmates; penalties.—

805 (1) Any employee of a county or municipal detention
806 facility or of a private detention facility under contract with
807 a county commission who engages in sexual misconduct, as defined
808 in s. 944.35(3)(c)1. ~~s. 944.35(3)(b)1.~~, with an inmate or an
809 offender supervised by the facility without committing the crime
810 of sexual battery commits a felony of the third degree,
811 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
812 The consent of an inmate to any act of sexual misconduct may not

591-01153A-15

20157020pb

813 be raised as a defense to prosecution under this section.

814 Section 16. Paragraph (uu) of subsection (2) of s. 435.04
815 and paragraph (f) of subsection (3) of s. 921.0022, Florida
816 Statutes, are reenacted for the purpose of incorporating the
817 amendment made by this act to s. 944.35, Florida Statutes, in
818 references thereto.

819 Section 17. Subsection (1) of s. 944.72, subsection (1) of
820 s. 945.21501, and s. 945.2151, Florida Statutes, are reenacted
821 for the purpose of incorporating the amendment made by this act
822 to s. 945.215, Florida Statutes, in references thereto.

823 Section 18. Subsection (6) of s. 945.6035, Florida Statutes,
824 is reenacted for the purpose of incorporating the amendment made
825 by this act to s. 945.6031, Florida Statutes, in a reference
826 thereto.

827 Section 19. Except as otherwise provided in this act, this
828 act shall take effect October 1, 2015.