

**By** the Committees on Governmental Oversight and Accountability;  
and Criminal Justice; and Senator Bracy

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1                                   A bill to be entitled  
2       An act relating to the Department of Corrections;  
3       amending s. 943.04, F.S.; authorizing the Department  
4       of Law Enforcement to issue an investigative demand  
5       seeking the production of an inmate's protected health  
6       information, medical records, or mental health records  
7       under certain circumstances; specifying requirements  
8       for the investigative demand; amending s. 944.151,  
9       F.S.; revising legislative intent; revising membership  
10      requirements for the safety and security review  
11      committee appointed by the Department of Corrections;  
12      specifying the duties of the committee; requiring the  
13      department to direct appropriate staff to complete  
14      specified duties of the department; revising  
15      scheduling requirements for inspections of state and  
16      private correctional institutions and facilities;  
17      revising the list of institutions that must be given  
18      priority for inspection; revising the list of  
19      institutions that must be given priority for certain  
20      security audits; revising minimum audit and evaluation  
21      requirements; requiring the department to direct  
22      appropriate staff to review staffing policies and  
23      practices as needed; conforming provisions to changes  
24      made by the act; amending s. 944.17, F.S.; authorizing  
25      the department to receive specified documents  
26      electronically at its discretion; amending s. 944.275,  
27      F.S.; revising the conditions on which an inmate may  
28      be granted a one-time award of 60 additional days of  
29      incentive gain-time by the department; clarifying when

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30 gain-time can be earned; amending s. 944.597, F.S.;

31 revising provisions relating to training of a

32 transport company's employees before transporting

33 prisoners; amending s. 945.36, F.S.; exempting

34 employees of a contracted community correctional

35 center from certain health testing regulations for the

36 limited purpose of administering urine screen drug

37 tests on inmates and releasees; amending s. 958.11,

38 F.S.; deleting a provision authorizing the department

39 to assign 18-year-old youthful offenders to the 19-24

40 age group facility under certain circumstances;

41 deleting a condition that all female youth offenders

42 are allowed to continue to be housed together only

43 until certain institutions are established or adapted

44 for separation by age and custody classifications;

45 authorizing inmates who are 17 years of age or under

46 to be placed at an adult facility for specified

47 purposes, subject to certain conditions; authorizing

48 the department to retain certain youthful offenders

49 until 25 years of age in a facility designated for 18-

50 to 22-year-old youth offenders under certain

51 circumstances; conforming provisions to changes made

52 by the act; amending s. 921.002, F.S.; conforming a

53 cross-reference; amending s. 947.149, F.S.; defining

54 the term "inmate with a debilitating illness";

55 expanding eligibility for conditional medical release

56 to include inmates with debilitating illnesses;

57 providing criteria for eligibility; requiring the

58 department to refer an eligible inmate for release;

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59 requiring the Commission on Offender Review to verify  
60 the referral; requiring that the department's referral  
61 for release include certain documents; providing an  
62 effective date.

63  
64 Be It Enacted by the Legislature of the State of Florida:

65  
66 Section 1. Subsection (6) is added to section 943.04,  
67 Florida Statutes, to read:

68 943.04 Criminal Justice Investigations and Forensic Science  
69 Program; creation; investigative, forensic, and related  
70 authority.—

71 (6) (a) In furtherance of the duties and responsibilities of  
72 the inspector general under s. 944.31, if the Department of Law  
73 Enforcement is conducting an investigation or assisting in the  
74 investigation of an injury to or death of an inmate which occurs  
75 while the inmate is under the custody or control of the  
76 Department of Corrections, the department is authorized to,  
77 before the initiation of a criminal proceeding relating to such  
78 injury or death, issue in writing and serve upon the Department  
79 of Corrections an investigative demand seeking the production of  
80 the inmate's protected health information, medical records, or  
81 mental health records as specified in s. 945.10(1)(a). The  
82 department shall use such records for the limited purpose of  
83 investigating or assisting in an investigation of an injury to  
84 or death of an inmate for which the records were requested. Any  
85 records disclosed pursuant to this subsection remain  
86 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
87 of the State Constitution in accordance with s. 945.10(2).

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88 (b) The investigative demand must be specific and limited  
89 in scope to the extent reasonably practicable in light of the  
90 purpose for which the protected health information or records  
91 are sought and must include a certification that:

92 1. The protected health information or records sought are  
93 relevant and material to a legitimate law enforcement inquiry;

94 2. There is a clear connection between the investigated  
95 incident and the inmate whose protected health information and  
96 records are sought; and

97 3. De-identified information could not reasonably be used.

98 Section 2. Section 944.151, Florida Statutes, is amended to  
99 read:

100 944.151 Safe operation and security of correctional  
101 institutions and facilities.—It is the intent of the Legislature  
102 that the Department of Corrections shall be responsible for the  
103 safe operation and security of the correctional institutions and  
104 facilities. The safe operation and security of the state's  
105 correctional institutions and facilities are ~~is~~ critical to  
106 ensure public safety and the safety of department employees and  
107 offenders, and to contain violent and chronic offenders until  
108 offenders are otherwise released from the department's custody  
109 pursuant to law. The Secretary of Corrections shall, at a  
110 minimum:

111 (1) Appoint appropriate department staff to a safety and  
112 security review committee that ~~which~~ shall evaluate new safety  
113 and security technology, review and discuss current issues  
114 impacting state and private correctional institutions and  
115 facilities, and review and discuss other issues as requested by  
116 department management., ~~at a minimum, be composed of: the~~

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117 ~~inspector general, the statewide security coordinator, the~~  
118 ~~regional security coordinators, and three wardens and one~~  
119 ~~correctional officer. The security review committee shall:~~

120 (2)(a) Direct appropriate department staff to establish a  
121 periodic schedule for the physical inspection of buildings and  
122 structures of each state and private correctional institution  
123 and facility to determine safety and security deficiencies. In  
124 scheduling the inspections, priority shall be given to older  
125 institutions and facilities;~~7~~ institutions and facilities that  
126 house a large proportion of violent offenders; institutions and  
127 facilities that have experienced a significant number of  
128 inappropriate incidents of use of force on inmates, assaults on  
129 employees, or inmate sexual abuse;~~7~~ and institutions and  
130 facilities that have experienced a significant number of escapes  
131 or escape attempts in the past.

132 (3)(b) Direct appropriate department staff to conduct or  
133 cause to be conducted announced and unannounced comprehensive  
134 security audits of all state and private correctional  
135 institutions and facilities. Priority shall be given to those  
136 institutions and facilities that have experienced a significant  
137 number of inappropriate incidents of use of force on inmates,  
138 assaults on employees, or sexual abuse ~~In conducting the~~  
139 ~~security audits, priority shall be given to older institutions,~~  
140 ~~institutions that house a large proportion of violent offenders,~~  
141 ~~and institutions that have experienced a history of escapes or~~  
142 ~~escape attempts. At a minimum, the audit must shall include an~~  
143 ~~evaluation of the physical plant, landscaping, fencing, security~~  
144 ~~alarms and perimeter lighting, and~~ confinement, arsenal, key and  
145 lock, and entrance and exit ~~inmate classification and staffing~~

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146 policies. The evaluation of the physical plant policies must  
147 include the identification of blind spots or areas where staff  
148 or inmates may be isolated and the deployment of video  
149 monitoring systems and other appropriate monitoring technologies  
150 in such spots or areas. Each correctional institution and  
151 facility shall be audited at least annually. The secretary shall  
152 annually report the audit ~~general survey~~ findings annually to  
153 the Governor and the Legislature.

154 ~~(c) Adopt and enforce minimum security standards and~~  
155 ~~policies that include, but are not limited to:~~

- 156 ~~1. Random monitoring of outgoing telephone calls by~~  
157 ~~inmates.~~
- 158 ~~2. Maintenance of current photographs of all inmates.~~
- 159 ~~3. Daily inmate counts at varied intervals.~~
- 160 ~~4. Use of canine units, where appropriate.~~
- 161 ~~5. Use of escape alarms and perimeter lighting.~~
- 162 ~~6. Florida Crime Information Center/National Crime~~  
163 ~~Information Center capabilities.~~
- 164 ~~7. Employment background investigations.~~

165 ~~(d) Annually make written prioritized budget~~  
166 ~~recommendations to the secretary that identify critical security~~  
167 ~~deficiencies at major correctional institutions.~~

168 (4)(e) Direct appropriate department staff to investigate  
169 and evaluate the usefulness and dependability of existing safety  
170 and security technology at state and private correctional ~~the~~  
171 institutions and facilities, investigate and evaluate new  
172 available safety and security technology, ~~available~~ and make  
173 periodic written recommendations to the secretary on the  
174 discontinuation or purchase of various safety and security

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175 devices.

176 (5)~~(f)~~ Direct appropriate department staff to contract, if  
177 deemed necessary, with security personnel, consulting engineers,  
178 architects, or other safety and security experts the department  
179 committee deems necessary for safety and security audits and  
180 security consultant services.

181 (6)~~(g)~~ Direct appropriate department staff, in conjunction  
182 with the regional offices, to establish a periodic schedule for  
183 conducting announced and unannounced escape simulation drills.

184 (7)~~(2)~~ Direct appropriate department staff to maintain and  
185 produce quarterly reports with accurate escape statistics. For  
186 the purposes of these reports, the term "escape" includes all  
187 possible types of escape, regardless of prosecution by the state  
188 attorney, and includes including offenders who walk away from  
189 nonsecure community facilities.

190 (8)~~(3)~~ Direct appropriate department staff to adopt,  
191 enforce, and annually evaluate the emergency escape response  
192 procedures, which must shall at a minimum include the immediate  
193 notification and inclusion of local and state law enforcement  
194 through a mutual aid agreement.

195 (9) Direct appropriate department staff to review staffing  
196 policies and practices as needed.

197 (10) Direct appropriate department staff to adopt and  
198 enforce minimum safety and security standards and policies that  
199 include, but are not limited to:

200 (a) Random monitoring of outgoing telephone calls by  
201 inmates.

202 (b) Maintenance of current photographs of all inmates.

203 (c) Daily inmate counts at varied intervals.

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- 204       (d) Use of canine units, where appropriate.  
205       (e) Use of escape alarms and perimeter lighting.  
206       (f) Use of the Florida Crime Information Center and  
207 National Crime Information Center capabilities.  
208       (g) Employment background investigations.  
209       ~~(11)-(4)~~ Direct appropriate department staff to submit in  
210 the annual legislative budget request a prioritized summary of  
211 critical safety and security deficiencies and repair and  
212 renovation security needs.

213       Section 3. Subsection (5) of section 944.17, Florida  
214 Statutes, is amended to read:

215       944.17 Commitments and classification; transfers.—

216       (5) The department shall also refuse to accept a person  
217 into the state correctional system unless the following  
218 documents are presented in a completed form by the sheriff or  
219 chief correctional officer, or a designated representative, to  
220 the officer in charge of the reception process. The department  
221 may, at its discretion, receive such documents electronically:

222       (a) The uniform commitment and judgment and sentence forms  
223 as described in subsection (4).

224       (b) The sheriff's certificate as described in s. 921.161.

225       (c) A certified copy of the indictment or information  
226 relating to the offense for which the person was convicted.

227       (d) A copy of the probable cause affidavit for each offense  
228 identified in the current indictment or information.

229       (e) A copy of the Criminal Punishment Code scoresheet and  
230 any attachments thereto prepared pursuant to Rule 3.701, Rule  
231 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or  
232 any other rule pertaining to the preparation of felony



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233 sentencing scoresheets.

234 (f) A copy of the restitution order or the reasons by the  
235 court for not requiring restitution pursuant to s. 775.089(1).

236 (g) The name and address of any victim, if available.

237 (h) A printout of a current criminal history record as  
238 provided through an FCIC/NCIC printer.

239 (i) Any available health assessments including medical,  
240 mental health, and dental, including laboratory or test  
241 findings; custody classification; disciplinary and adjustment;  
242 and substance abuse assessment and treatment information which  
243 may have been developed during the period of incarceration  
244 before ~~prior to~~ the transfer of the person to the department's  
245 custody. Available information shall be transmitted on standard  
246 forms developed by the department.

247

248 In addition, the sheriff or other officer having such person in  
249 charge shall also deliver with the foregoing documents any  
250 available presentence investigation reports as described in s.  
251 921.231 and any attached documents. After a prisoner is admitted  
252 into the state correctional system, the department may request  
253 such additional records relating to the prisoner as it considers  
254 necessary from the clerk of the court, the Department of  
255 Children and Families, or any other state or county agency for  
256 the purpose of determining the prisoner's proper custody  
257 classification, gain-time eligibility, or eligibility for early  
258 release programs. An agency that receives such a request from  
259 the department must provide the information requested. The  
260 department may, at its discretion, receive such information  
261 electronically.

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262 Section 4. Paragraphs (b) and (d) of subsection (4) of  
263 section 944.275, Florida Statutes, are amended, and paragraph  
264 (f) is added to that subsection, to read:

265 944.275 Gain-time.—

266 (4)

267 (b) For each month in which an inmate works diligently,  
268 participates in training, uses time constructively, or otherwise  
269 engages in positive activities, the department may grant  
270 incentive gain-time in accordance with this paragraph. The rate  
271 of incentive gain-time in effect on the date the inmate  
272 committed the offense which resulted in his or her incarceration  
273 shall be the inmate's rate of eligibility to earn incentive  
274 gain-time throughout the period of incarceration and shall not  
275 be altered by a subsequent change in the severity level of the  
276 offense for which the inmate was sentenced.

277 1. For sentences imposed for offenses committed prior to  
278 January 1, 1994, up to 20 days of incentive gain-time may be  
279 granted. If granted, such gain-time shall be credited and  
280 applied monthly.

281 2. For sentences imposed for offenses committed on or after  
282 January 1, 1994, and before October 1, 1995:

283 a. For offenses ranked in offense severity levels 1 through  
284 7, under former s. 921.0012 or former s. 921.0013, up to 25 days  
285 of incentive gain-time may be granted. If granted, such gain-  
286 time shall be credited and applied monthly.

287 b. For offenses ranked in offense severity levels 8, 9, and  
288 10, under former s. 921.0012 or former s. 921.0013, up to 20  
289 days of incentive gain-time may be granted. If granted, such  
290 gain-time shall be credited and applied monthly.

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291 3. For sentences imposed for offenses committed on or after  
292 October 1, 1995, the department may grant up to 10 days per  
293 month of incentive gain-time, ~~except that no prisoner is~~  
294 ~~eligible to earn any type of gain-time in an amount that would~~  
295 ~~cause a sentence to expire, end, or terminate, or that would~~  
296 ~~result in a prisoner's release, prior to serving a minimum of 85~~  
297 ~~percent of the sentence imposed. For purposes of this~~  
298 ~~subparagraph, credits awarded by the court for time physically~~  
299 ~~incarcerated shall be credited toward satisfaction of 85 percent~~  
300 ~~of the sentence imposed. Except as provided by this section, a~~  
301 ~~prisoner shall not accumulate further gain-time awards at any~~  
302 ~~point when the tentative release date is the same as that date~~  
303 ~~at which the prisoner will have served 85 percent of the~~  
304 ~~sentence imposed. State prisoners sentenced to life imprisonment~~  
305 ~~shall be incarcerated for the rest of their natural lives,~~  
306 ~~unless granted pardon or clemency.~~

307 (d) Notwithstanding the monthly maximum awards of incentive  
308 gain-time under subparagraphs (b)1., and 2., and 3., the  
309 education program manager shall recommend, and the Department of  
310 Corrections may grant, a one-time award of 60 additional days of  
311 incentive gain-time to an inmate who is otherwise eligible and  
312 who successfully completes requirements for and is, or has been  
313 during the current commitment, awarded a high school equivalency  
314 diploma or vocational certificate. Under no circumstances may an  
315 inmate receive more than 60 days for educational attainment  
316 pursuant to this section.

317 (f) An inmate who is subject to subparagraph (b)3. is not  
318 eligible to earn or receive gain-time under paragraph (a),  
319 paragraph (b), paragraph (c), or paragraph (d) or any other type

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320 of gain-time in an amount that would cause a sentence to expire,  
321 end, or terminate, or that would result in a prisoner's release,  
322 before serving a minimum of 85 percent of the sentence imposed.  
323 For purposes of this paragraph, credits awarded by the court for  
324 time physically incarcerated shall be credited toward  
325 satisfaction of 85 percent of the sentence imposed. Except as  
326 provided by this section, a prisoner may not accumulate further  
327 gain-time awards at any point when the tentative release date is  
328 the same as that date at which the prisoner will have served 85  
329 percent of the sentence imposed. State prisoners sentenced to  
330 life imprisonment shall be incarcerated for the rest of their  
331 natural lives, unless granted a pardon or clemency.

332 Section 5. Subsection (2) of section 944.597, Florida  
333 Statutes, is amended to read:

334 944.597 Transportation and return of prisoners by private  
335 transport company.—

336 (2) The department shall include, but is ~~shall~~ not be  
337 limited to, the following requirements in any contract with any  
338 transport company:

339 (a) That the transport company shall maintain adequate  
340 liability coverage with respect to the transportation of  
341 prisoners.†

342 (b) That the transport company shall require its employees  
343 to complete at least 100 hours of training before transporting  
344 prisoners. The curriculum for such training must be approved by  
345 the department and include instruction in:

- 346 1. Use of restraints;  
347 2. Searches of prisoners;  
348 3. Use of force, including use of appropriate weapons and

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349 firearms;

350 4. Cardiopulmonary resuscitation;

351 5. Map reading; and

352 6. Defensive driving. ~~personnel employed with the transport~~

353 ~~company who are based in the state shall meet the minimum~~

354 ~~standards in accordance with s. 943.13 and that personnel~~

355 ~~employed with the transport company based outside of Florida~~

356 ~~shall meet the minimum standards for a correctional officer or~~

357 ~~law enforcement officer in the state where the employee is~~

358 ~~based;~~

359 (c) That the transport company shall adhere to standards

360 which provide for humane treatment of prisoners while in the

361 custody of the transport company.~~†~~

362 (d) That the transport company shall submit reports to the

363 department regarding incidents of escape, use of force, and

364 accidents involving prisoners in the custody of the transport

365 company.

366 Section 6. Section 945.36, Florida Statutes, is amended to

367 read:

368 945.36 Exemption from health testing regulations for law

369 enforcement personnel conducting drug tests on inmates and

370 releasees.—

371 (1) Any law enforcement officer, state or county probation

372 officer, ~~or~~ employee of the Department of Corrections, or

373 employee of a contracted community correctional center who is

374 certified by the Department of Corrections pursuant to

375 subsection (2), is exempt from part I of chapter 483, for the

376 limited purpose of administering a urine screen drug test to:

377 (a) Persons during incarceration;

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378 (b) Persons released as a condition of probation for either  
379 a felony or misdemeanor;

380 (c) Persons released as a condition of community control;

381 (d) Persons released as a condition of conditional release;

382 (e) Persons released as a condition of parole;

383 (f) Persons released as a condition of provisional release;

384 (g) Persons released as a condition of pretrial release; or

385 (h) Persons released as a condition of control release.

386 (2) The Department of Corrections shall develop a procedure  
387 for certification of any law enforcement officer, state or  
388 county probation officer, ~~or~~ employee of the Department of  
389 Corrections, or employee of a contracted community correctional  
390 center to perform a urine screen drug test on the persons  
391 specified in subsection (1).

392 Section 7. Section 958.11, Florida Statutes, is amended to  
393 read:

394 958.11 Designation of institutions and programs for  
395 youthful offenders; assignment from youthful offender  
396 institutions and programs.—

397 (1) The department shall by rule designate separate  
398 institutions and programs for youthful offenders and shall  
399 employ and utilize personnel specially qualified by training and  
400 experience to operate all such institutions and programs for  
401 youthful offenders. Youthful offenders who are at least 14 years  
402 of age but who have not yet reached the age of 18 ~~19~~ years at  
403 the time of reception shall be separated from ~~youthful~~ offenders  
404 who are 18 ~~19~~ years of age or older, ~~except that if the~~  
405 ~~population of the facilities designated for 14-year-old to 18-~~  
406 ~~year-old youthful offenders exceeds 100 percent of lawful~~

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407 ~~capacity, the department may assign 18-year-old youthful~~  
408 ~~offenders to the 19-24 age group facility.~~

409 (2) Youthful offender institutions and programs shall  
410 contain only those youthful offenders sentenced as such by a  
411 court or classified as such by the department, pursuant to the  
412 requirements of subsections (7) ~~(4)~~ and (9) ~~(6)~~, except that  
413 under special circumstances select adult offenders may be  
414 assigned to youthful offender institutions. All female youthful  
415 offenders ~~of all ages~~ may continue to be housed together at  
416 those institutions designated by department rule ~~until such time~~  
417 ~~as institutions for female youthful offenders are established or~~  
418 ~~adapted to allow for separation by age and to accommodate all~~  
419 ~~custody classifications.~~

420 (3) The department may assign a youthful offender who is 18  
421 years of age or older to a facility in the state correctional  
422 system which is not designated for the care, custody, control,  
423 and supervision of youthful offenders or an age group only in  
424 the following circumstances:

425 (a) If the youthful offender is convicted of a new crime  
426 that ~~which~~ is a felony under the laws of this state.

427 (b) If the youthful offender becomes such a serious  
428 management or disciplinary problem resulting from serious  
429 violations of the rules of the department that his or her  
430 original assignment would be detrimental to the interests of the  
431 program and to other inmates committed thereto.

432 (c) If the youthful offender needs medical treatment,  
433 health services, or other specialized treatment otherwise not  
434 available at the youthful offender facility.

435 (d) If the department determines that the youthful offender

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436 should be transferred outside of the state correctional system,  
437 as provided by law, for services not provided by the department.

438 (e) If bed space is not available in a designated community  
439 residential facility, the department may assign a youthful  
440 offender to a community residential facility, provided that the  
441 youthful offender is separated from other offenders insofar as  
442 is practical.

443 (4) The department may assign a youthful offender whose age  
444 does not exceed 17 years to an adult facility for medical or  
445 mental health reasons, for protective management, or for close  
446 management. The youthful offender shall be separated from  
447 offenders who are 18 years of age or older.

448 (5) ~~(f)~~ If the youthful offender was originally assigned to  
449 a facility designated for 14- to 17-year-old ~~14-year-old to 18-~~  
450 ~~year-old~~ youthful offenders, but subsequently reaches the age of  
451 18 ~~19~~ years, the department may retain the youthful offender in  
452 a ~~the~~ facility designated for 18- to 22-year-old youthful  
453 offenders if the department determines that it is in the best  
454 interest of the youthful offender and the department.

455 (6) If the youthful offender was originally assigned to a  
456 facility designated for 18- to 22-year-old youthful offenders,  
457 but subsequently reaches the age of 23 years, the department may  
458 retain the offender in the facility until the age of 25 if the  
459 department determines that it is in the best interest of the  
460 youthful offender and the department.

461 ~~(g) If the department determines that a youthful offender~~  
462 ~~originally assigned to a facility designated for the 19-24 age~~  
463 ~~group is mentally or physically vulnerable by such placement,~~  
464 ~~the department may reassign a youthful offender to a facility~~



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465 ~~designated for the 14-18 age group if the department determines~~  
466 ~~that a reassignment is necessary to protect the safety of the~~  
467 ~~youthful offender or the institution.~~

468 ~~(h) If the department determines that a youthful offender~~  
469 ~~originally assigned to a facility designated for the 14-18 age~~  
470 ~~group is disruptive, incorrigible, or uncontrollable, the~~  
471 ~~department may reassign a youthful offender to a facility~~  
472 ~~designated for the 19-24 age group if the department determines~~  
473 ~~that a reassignment would best serve the interests of the~~  
474 ~~youthful offender and the department.~~

475 (7)~~(4)~~ The department shall continuously screen all  
476 institutions, facilities, and programs for any inmate who meets  
477 the eligibility requirements for youthful offender designation  
478 specified in s. 958.04(1)(a) and (c) whose age does not exceed  
479 24 years and whose total length of sentence does not exceed 10  
480 years, and the department may classify and assign as a youthful  
481 offender any inmate who meets the criteria of this subsection.

482 (8)~~(5)~~ The department shall coordinate all youthful  
483 offender assignments or transfers and shall review and maintain  
484 access to full and complete documentation and substantiation of  
485 all such assignments or transfers of youthful offenders to or  
486 from facilities in the state correctional system which are not  
487 designated for their care, custody, and control, except  
488 assignments or transfers made pursuant to paragraph (3)(c).

489 (9)~~(6)~~ The department may assign to a youthful offender  
490 facility any inmate, except a capital or life felon, whose age  
491 does not exceed 19 years but who does not otherwise meet the  
492 criteria of this section, if the department determines that such  
493 inmate's mental or physical vulnerability would substantially or

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494 materially jeopardize his or her safety in a nonyouthful  
495 offender facility. Assignments made under this subsection shall  
496 be included in the department's annual report.

497 Section 8. Paragraph (e) of subsection (1) of section  
498 921.002, Florida Statutes, is amended to read:

499 921.002 The Criminal Punishment Code.—The Criminal  
500 Punishment Code shall apply to all felony offenses, except  
501 capital felonies, committed on or after October 1, 1998.

502 (1) The provision of criminal penalties and of limitations  
503 upon the application of such penalties is a matter of  
504 predominantly substantive law and, as such, is a matter properly  
505 addressed by the Legislature. The Legislature, in the exercise  
506 of its authority and responsibility to establish sentencing  
507 criteria, to provide for the imposition of criminal penalties,  
508 and to make the best use of state prisons so that violent  
509 criminal offenders are appropriately incarcerated, has  
510 determined that it is in the best interest of the state to  
511 develop, implement, and revise a sentencing policy. The Criminal  
512 Punishment Code embodies the principles that:

513 (e) The sentence imposed by the sentencing judge reflects  
514 the length of actual time to be served, shortened only by the  
515 application of incentive and meritorious gain-time as provided  
516 by law, and may not be shortened if the defendant would  
517 consequently serve less than 85 percent of his or her term of  
518 imprisonment as provided in s. 944.275(4) ~~s. 944.275(4)(b)3~~. The  
519 provisions of chapter 947, relating to parole, shall not apply  
520 to persons sentenced under the Criminal Punishment Code.

521 Section 9. Section 947.149, Florida Statutes, is amended to  
522 read:

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523 947.149 Conditional medical release.—

524 (1) The commission shall, in conjunction with the  
525 department, establish the conditional medical release program.  
526 An inmate is eligible for supervised ~~consideration for~~ release  
527 under the conditional medical release program when the inmate,  
528 because of an existing medical or physical condition, is  
529 determined by the department to be within one of the following  
530 designations:

531 (a) "Inmate with a debilitating illness," which means an  
532 inmate who is determined to be suffering from a significant and  
533 permanent nonterminal condition, disease, or syndrome that has  
534 rendered the inmate so physically or cognitively debilitated or  
535 incapacitated as to create a reasonable probability that he or  
536 she does not present any danger to society. He or she must have  
537 served at least 50 percent of his or her sentence.

538 (b) ~~(a)~~ "Permanently incapacitated inmate," which means an  
539 inmate who has a condition caused by injury, disease, or illness  
540 which, to a reasonable degree of medical certainty, renders the  
541 inmate permanently and irreversibly physically incapacitated to  
542 the extent that the inmate does not constitute a danger to  
543 herself or himself or others.

544 (c) ~~(b)~~ "Terminally ill inmate," which means an inmate who  
545 has a condition caused by injury, disease, or illness which, to  
546 a reasonable degree of medical certainty, renders the inmate  
547 terminally ill to the extent that there can be no recovery and  
548 death is imminent, so that the inmate does not constitute a  
549 danger to herself or himself or others.

550 (2) To be eligible, an inmate must also be determined by  
551 the department to meet all of the following criteria:

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- 552       (a) Has been convicted of a felony.
- 553       (b) Has no current or prior conviction for a capital or  
554 first degree felony, for a sexual offense, or for an offense  
555 involving a child.
- 556       (c) Has not received a disciplinary report within the  
557 previous 6 months.
- 558       (d) Has never received a disciplinary report for a violent  
559 act.
- 560       (e) Has renounced any gang affiliation.
- 561       (3)-(2) Notwithstanding any provision to the contrary, any  
562 person determined eligible under this section and sentenced to  
563 the custody of the department shall ~~may~~, upon referral by the  
564 department and verification of eligibility by commission, be  
565 placed on ~~considered for~~ conditional medical release by the  
566 commission, ~~in addition to any parole consideration for which~~  
567 ~~the inmate may be considered, except that conditional medical~~  
568 ~~release is not authorized for an inmate who is under sentence of~~  
569 ~~death.~~
- 570       (4) No inmate has a right to conditional medical release or  
571 to a medical evaluation to determine eligibility for such  
572 release.
- 573       (5) (a) -(3) The commission has the authority ~~and whether or~~  
574 ~~not to grant conditional medical release and establish~~  
575 ~~additional conditions of conditional medical release rests~~  
576 ~~solely within the discretion of the commission, in accordance~~  
577 ~~with the provisions of this section, together with the authority~~  
578 to approve the release plan proposed by the department to  
579 include necessary medical care and attention.
- 580       (b) The department shall identify inmates who may be

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581 eligible for conditional medical release based upon available  
582 medical information and shall refer them to the commission if  
583 they are eligible under this section ~~for consideration. In~~  
584 ~~considering an inmate for conditional medical release, the~~  
585 ~~commission may require that additional medical evidence be~~  
586 ~~produced or that additional medical examinations be conducted,~~  
587 ~~and may require such other investigations to be made as may be~~  
588 ~~warranted.~~

589 (c) The referral by the department to the commission must  
590 include the following information:

591 1. Proposed conditional medical release plan.

592 2. Any relevant medical history, including current medical  
593 prognosis.

594 3. Prison experience and criminal history. The criminal  
595 history must include all of the following:

596 a. A claim of innocence, if any.

597 b. The degree to which the inmate accepts responsibility  
598 for his or her acts leading to the conviction of the crime.

599 c. How any claim of responsibility has affected the  
600 inmate's feelings of remorse.

601 4. Any history of substance abuse and mental health issues.

602 5. Any disciplinary action taken against the inmate while  
603 in prison.

604 6. Any participation in prison work and other prison  
605 programs.

606 7. Any other information deemed necessary by the  
607 department.

608 (d) In verifying eligibility of an inmate for conditional  
609 medical release, the commission shall review the information

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610 provided by the department.

611 (e) The commission must finish its verification of the  
612 eligibility of an inmate within 60 days after the department  
613 refers the inmate for conditional medical release.

614 (6) ~~(4)~~ The conditional medical release term of an inmate  
615 released on conditional medical release is for the remainder of  
616 the inmate's sentence, without diminution of sentence for good  
617 behavior. Supervision of the medical releasee must include  
618 periodic medical evaluations at intervals included in the  
619 recommended release plan and approved ~~determined~~ by the  
620 commission at the time of release. Supervision may also include  
621 electronic monitoring.

622 (7) (a) ~~(5) (a)~~ If it is discovered during the conditional  
623 medical release that the medical or physical condition of the  
624 medical releasee has improved to the extent that she or he would  
625 no longer be eligible for conditional medical release under this  
626 section, the commission may order that the releasee be returned  
627 to the custody of the department for a conditional medical  
628 release revocation hearing, in accordance with s. 947.141. If  
629 conditional medical release is revoked due to improvement in the  
630 medical or physical condition of the releasee, she or he shall  
631 serve the balance of her or his sentence with credit for the  
632 time served on conditional medical release and without  
633 forfeiture of any gain-time accrued prior to conditional medical  
634 release. If the person whose conditional medical release is  
635 revoked due to an improvement in medical or physical condition  
636 would otherwise be eligible for parole or any other release  
637 program, the person may be considered for such release program  
638 pursuant to law.

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639 (b) In addition to revocation of conditional medical  
640 release pursuant to paragraph (a), conditional medical release  
641 may also be revoked for violation of any condition of the  
642 release established by the commission, in accordance with s.  
643 947.141, and the releasee's gain-time may be forfeited pursuant  
644 to s. 944.28(1).

645 (8)~~(6)~~ The department and the commission shall adopt rules  
646 as necessary to implement the conditional medical release  
647 program.

648 Section 10. This act shall take effect July 1, 2017.