

By the Committee on Criminal Justice; and Senator Bradley

591-01284A-18

2018484c1

1                   A bill to be entitled  
2           An act relating to sentencing; amending s. 921.188,  
3           F.S.; authorizing a court to sentence offenders to a  
4           county jail for up to 24 months under certain  
5           circumstances for offenses committed after a specified  
6           date; requiring sentencing conditions; prohibiting an  
7           offender from receiving gain-time or other sentence  
8           credit that would result in the offender serving less  
9           than 85 percent of his or her sentence; providing that  
10          contracts are contingent upon an appropriation;  
11          providing contractual requirements; requiring specific  
12          appropriations; providing for such appropriations;  
13          requiring the validation of per diem rates before  
14          payments are made; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

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18           Section 1. Section 921.188, Florida Statutes, is amended to  
19           read:

20           921.188 Placement of certain state inmates in local  
21           detention facilities.—

22           (1) For offenses committed on or after ~~Effective~~ June 17,  
23           1993 and before July 1, 2018, notwithstanding the provisions of  
24           ss. 775.08, former 921.001, 921.002, 921.187, 944.02, and  
25           951.23, or any other law to the contrary, a person whose  
26           presumptive sentence is 1 year and 1 day up to 22 months in a  
27           state correctional institution may be placed by the court into  
28           the custody of a local detention facility as a condition of  
29           probation or community control for a felony offense contained in

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30 sentencing guidelines categories five through nine contained in  
31 Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, or  
32 similar levels described in s. 921.0022, except for such person  
33 whose total sentence points are greater than 52 or less than 40.  
34 The court may place such person for the duration of the  
35 presumptive sentence. The court may only place a person in a  
36 local detention facility pursuant to this section if there is a  
37 contractual agreement between the chief correctional officer of  
38 that county and the Department of Corrections. The contract may  
39 include all operational functions, or only housing wherein the  
40 department would provide staffing and medical costs. The  
41 agreement must provide for a per diem or partial per diem  
42 reimbursement for each person placed under this section, which  
43 is payable by the Department of Corrections for the duration of  
44 the offender's placement in the facility. The full per diem  
45 reimbursement may not exceed the per diem published in the  
46 Department of Corrections' most recent annual report for total  
47 department facilities. This section does not limit the court's  
48 ability to place a person in a local detention facility for less  
49 than 1 year.

50 (2) (a) For offenses committed on or after July 1, 2018,  
51 notwithstanding ss. 775.08 and 921.0024 or any other provision  
52 of law, a court may sentence an offender to a term in the county  
53 jail in the county where the offense was committed for up to 24  
54 months if the offender meets all of the following criteria:

55 1. The offender's total sentence points score, as provided  
56 in s. 921.0024, is more than 44 points but no more than 60  
57 points.

58 2. The offender's primary offense is not a forcible felony

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59 as defined in s. 776.08, except that an offender whose primary  
60 offense is a felony of the third degree under chapter 810 is  
61 eligible to be sentenced to a county jail under this subsection.

62 3. The offender's primary offense is not punishable by a  
63 minimum mandatory sentence of more than 24 months.

64 (b) As a condition of the sentence, the court shall order  
65 that the offender:

66 1. Be placed under the jurisdiction of the Department of  
67 Corrections; and

68 2. Serve the remainder of his or her sentence in a  
69 Department of Corrections facility in the event a contract  
70 between the chief correctional officer and the Department of  
71 Corrections expires, terminates, or is not renewed during an  
72 offender's sentence term.

73 (c) An offender sentenced to county jail under this section  
74 may not receive gain-time or other sentence credit in an amount  
75 that would cause his or her sentence to expire, end, or  
76 terminate, or that would result in his or her release, before  
77 serving a minimum of 85 percent of the sentence imposed.

78 (d)1. A court may only sentence an offender to a county  
79 jail pursuant to this section if there is a contractual  
80 agreement between the chief correctional officer of that county  
81 and the Department of Corrections.

82 2. If the chief correctional officer of a county requests  
83 the Department of Corrections to enter into a contract that  
84 allows offenders to be sentenced to the county jail pursuant to  
85 paragraph (a), subject to the restrictions imposed in this  
86 paragraph and paragraphs (e) and (h), the Department of  
87 Corrections must enter into such a contract. The contract must

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88 specifically establish the maximum number of beds and the  
89 validated per diem rate. The contract must provide for per diem  
90 reimbursement for occupied inmate days based on the contracting  
91 county's most recent annual adult male custody or adult female  
92 custody per diem rates, not to exceed \$60 per inmate.

93 (e) A contract under this section is contingent upon a  
94 specific appropriation in the General Appropriations Act.  
95 Contracts must be awarded by the Department of Corrections on a  
96 first-come, first-served basis up to the maximum appropriation  
97 allowable in the General Appropriations Act for this purpose.  
98 The maximum appropriation allowable consists of funds  
99 appropriated in or transferred to the specific appropriation in  
100 the Inmates Sentenced to County Jail appropriation category.  
101 Before any transferred appropriation under this section, the  
102 Inmates Sentenced to County Jail appropriation category provides  
103 for estimated incremental appropriation for county jail beds  
104 contracted under this section in excess of the Department of  
105 Corrections' per diem for adult male and female inmates.

106 (f) The Department of Corrections shall transfer funds  
107 pursuant to s. 216.177 from other appropriation categories  
108 within the Adult Male Custody Operations or the Adult and  
109 Youthful Offender Female Custody Operations budget entities to  
110 the Inmates Sentenced to County Jail appropriation category in  
111 an amount necessary to satisfy the requirements of each executed  
112 contract, but not to exceed the Department of Corrections'  
113 average total per diem published for the preceding fiscal year  
114 for adult male custody or adult and youthful offender female  
115 custody inmates for each county jail bed contracted.

116 (g) The Department of Corrections shall assume maximum

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117 annual value of each contract when determining the full use of  
118 funds appropriated to ensure that the maximum appropriation  
119 allowable is not exceeded.

120 (h) All contractual per diem rates under this section and  
121 all per diem rates used by the Department of Corrections must be  
122 validated by the Auditor General before payments are made.

123 Section 2. This act shall take effect July 1, 2018.