

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 722

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Education for Student Inmates

DATE: February 1, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Siples | Jones | CJ | Fav/CS |
| 2. | | | CA | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 722 authorizes a county or municipal detention facility or the Department of Corrections (DOC) to contract with a Florida College System institution to provide education services to its inmates. The bill affirmatively provides that state funds provided for the operation of postsecondary workforce programs may be expended on a state inmate with 24 months or less remaining on his or her sentence, notwithstanding s. 1011.81(4), F.S., which prohibits state funds for the Florida College System Program Fund from being expended on the education of state or federal inmates.

The bill will have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2022.

II. Present Situation:

Sentencing of Inmates – Overview

A defendant that is convicted of a crime in the state of Florida may be incarcerated in either county jail or state prison based upon the degree of the offense. A number of factors are taken into consideration when determining whether a defendant will be committed to the custody of the jail or the DOC. A defendant convicted of a misdemeanor offense can be committed to the

custody of the county's chief correctional officer for no more than one year for a first degree misdemeanor or 60 days for a second degree misdemeanor.¹

For a defendant convicted of a felony offense, the Criminal Punishment Code² (Code) applies to sentencing for felony offenses committed on or after October 1, 1998.³ The permissible sentence (absent a downward departure) for an offense ranges from the calculated lowest permissible sentence as determined by the Code to the statutory maximum for the primary offense. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is 5 years.⁴

Education for County Inmates

A county and municipal detention facility⁵ is authorized to contract with a district school board, the Florida Virtual School, or an authorized charter school⁶ to provide education services for its inmates.⁷ Such education services may include educational, career, or vocational training that is authorized by the sheriff or chief correctional officer.⁸ The County Corrections Equality Act requires that female inmates have access to educational, vocational training, rehabilitation and substance abuse treatment that are equivalent to that provided to male inmates.⁹

County and municipal detention facilities must provide educational services to minors detained in such facilities if the minor has not graduated from high school or is an eligible student with disabilities under the age of 22 who has not graduated with a standard diploma or its equivalent. The educational services must be offered by the local school district in which the facility is located.¹⁰ These educational services are based on the estimated length of time the youth will be in the facility and the youth's current level of functioning. School district superintendents or their designees must be notified by the county's chief correctional officer if a youth under the age of 21 is accepted into the facility.¹¹

¹ Section 775.082(4), F.S.

² Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

³ Section 921.0022, F.S.

⁴ See s. 775.082, F.S.

⁵ Section 951.23(1)(a) and (d), F.S., define county detention facility to mean a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor; and a municipal detention facility to mean a city jail, a city stockade, a city prison camp, and any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of violation of municipal laws or ordinances.

⁶ Charter schools are authorized to operate under s. 1002.33, F.S.

⁷ Section 951.176(1), F.S.

⁸ *Id.*

⁹ Section 951.175, F.S.

¹⁰ Section 951.176(2), F.S.

¹¹ *Id.* A cooperative agreement must be developed with the local school district and applicable law enforcement units to address the notification requirement and the provision of educational services to these youth.

Education for State Prisoners

Section 944.801(1), F.S., establishes the Correctional Educational Program (CEP), within the Department of Corrections (DOC). The CEP is composed of the educational facilities and services of all institutions and facilities housing inmates operated by the DOC. The duties of the CEP, in part, include:

- Developing guidelines for the collection of education-related information during the inmate reception process and disseminating such information to classification staff of the DOC;¹²
- Monitoring and assessing all inmate education program services and reporting the results of such evaluation in the annual report of activities;
- Developing complete and reliable statistics on the educational histories, the city/intracity area and school district where the inmate was domiciled prior to incarceration, the participation in state educational and training programs, and the occupations of inmates confined in state correctional institutions;
- Approving educational programs of the appropriate levels and types in the correctional institutions and developing inmate admission procedures;
- Entering into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out its duties and responsibilities and ensuring that agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education standards;
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses;
- Developing a written procedure for selecting programs to add to or delete from the vocational curriculum, including labor market analyses;
- Ensuring that every inmate who has two years or more remaining to serve on his or her sentence at the time that he or she is received at an institution and who lack basic and functional literacy skills¹³ attends at least 150 hours of sequential instruction in a correctional adult basic education program;¹⁴
- Recommending the award of additional gain-time for inmates who receive a high school equivalency diploma or a vocational certificate; and
- Ensuring that all education staff are certified in accordance with the Department of Education standards.¹⁵

¹² Section 944.801(3)(a), F.S. The information collected must include the inmates' areas of educational or vocational interest, vocational skills, and level of education.

¹³ Section 1004.02, F.S., defines "basic literacy" as the demonstration of academic competence from 2.0 through 5.9 educational grade levels as measured by a means approved for this purpose by the State Board of Education, and "functional literacy" as the demonstration of academic competence from 6.0 through 8.9 educational grade levels as measured by a means approved for this purpose by the State Board of Education.

¹⁴ Inmates are to be retested at the completion of the 150 hours of education. If an inmate has not attained functional literacy, the DOC may require the inmate to remain in the instructional program. The law provides exceptions, such as those serving life sentences or have been sentenced to death, insufficient facilities or staff to provide instruction, and exempted based on health concerns.

¹⁵ Section 944.801(3), F.S.

The CEP is authorized to establish a prison entrepreneurship program;¹⁶ to work in conjunction with other state agencies to train and certify inmates as firefighters;¹⁷ and to contract with a district school board, the Florida Virtual School, or an authorized charter school to provide any educational, career, or vocational training authorized by the DOC.¹⁸

Currently, the DOC and its contracted entities deliver technical skills in training that spans 36 trade areas including: construction; manufacturing; welding; electricity; energy technology; warehouse/logistics; commercial vehicle driving; heavy equipment operations; barbering/cosmetology; culinary/hospitality; information technology; Heating, Ventilation, and Air Conditioning (HVAC); and landscape management.¹⁹ The DOC partners with several college and community education partners to provide such programs, including North Florida Technical College, Palm Beach State College, Polk State College, Southwest Florida College, and Tallahassee Community College.²⁰

Due to difficulty in recruiting and retaining qualified teachers, the DOC reports that the capacity for the career and technical education programs is reduced, and the academic education programs are being operated at 114 percent capacity, on average.²¹

According to the DOC, those who participate in Career and Technical training programs recidivate at a rate of 25.1 percent less than those who do not.²² The DOC's internal analysis found that for every grade level increase achieved, a student's likelihood of recidivism decreases by three percent.²³

Florida College System

The Florida College System (FCS) is comprised of 28 public colleges and community colleges in this state. While governed by local boards, the colleges are coordinated under the jurisdiction of the State Board of Education. Administratively, the Chancellor of Florida Colleges is the chief executive officer of the system, reporting to the Commissioner of Education who serves as the chief executive officer of Florida's K-20 System.²⁴

The primary mission and responsibility of FCS institutions is responding to community needs for postsecondary academic education and career degree education. This mission and responsibility includes:

- Providing lower level undergraduate instruction and awarding associate degrees;
- Preparing students directly for careers requiring less than baccalaureate degrees;

¹⁶ Section 944.801(5), F.S.

¹⁷ Section 944.801(6), F.S.

¹⁸ Section 944.801(7), F.S.

¹⁹ Department of Corrections, *2022 Agency Legislative Bill Analysis for Senate Bill 722*, pg. 2, (Nov. 30, 2021) (on file with the Committee on Criminal Justice).

²⁰ *Id.*, at pgs. 2-3.

²¹ *Id.*, at pg. 3.

²² *Id.*, at pg. 2.

²³ *Id.*

²⁴ Department of Education, Florida College System, *About Us*, available at <https://www.fldoe.org/schools/higher-ed/fl-college-system/about-us/> (last visited January 13, 2022).

- Providing student develop services, including assessment, student tracking, support for disabled students, advisement, counseling, financial aid, career development, and remedial and tutorial services, to ensure student success;
- Promoting economic development for the state within each FCS institution district through the provision of special programs, including, but not limited to, the:
 - Enterprise Florida-related programs;
 - Technology transfer centers;
 - Economic development centers; and
 - Workforce literacy programs; and
- Providing upper level instruction and awarding baccalaureate degrees as specifically authorized by law.²⁵

A separate and secondary role for FCS institutions includes offering of programs in:

- Community services that are not directly related to academic or occupational advancement;
- Adult education services, including adult basic education, adult general education, adult secondary education, and General Educational Development test instruction; and
- Recreational and leisure services.²⁶

Florida College System Program Fund

The Florida College System Program Fund is comprised of appropriations made by the Legislature for operational support of the FCS institutions.²⁷ Program funds are apportioned and distributed to each FCS institution in accordance with state law and the rules of the State Board of Education.²⁸ State funds provided for the FCS Program Fund may not be expended on the education of state or federal inmates.²⁹

Workforce Education

Workforce education includes adult general education and career education and may consist of a course or a program of study leading to an occupational completion point (OCP),³⁰ a career certificate, an applied technology diploma, or a career degree.³¹ Specifically, workforce education includes:

- Adult general education programs;³²
- Career certificate programs,³³

²⁵ Section 1004.65(5), F.S.

²⁶ Section 1004.65(6), F.S.

²⁷ Section 1011.81(1), F.S.

²⁸ *Id.*

²⁹ Section 1011.81(4), F.S.

³⁰ An “occupational completion point” (OCP) means the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program. *See s. 1004.02(21)*, F.S.

³¹ Section 1004.02(25), F.S.

³² “Adult general education” means comprehensive instructional programs designed to improve the employability of the state’s workforce through adult basic education, adult secondary education, English for Speakers of Other Languages, applied academics for adult education instruction, and instruction for adults with disabilities. Section 1004.02(3), F.S.

³³ A “career certificate program” means a course of study that leads to at least one OCP. The program may also confer credit that may articulate with a diploma or career degree education program. Section 1004.02(20), F.S.

- Applied technology diploma (ATD) programs;³⁴
- Continuing workforce education courses;³⁵
- Degree career education programs;³⁶ and
- Apprenticeship³⁷ and preapprenticeship³⁸ programs.³⁹

Any workforce education program may be conducted by a FCS institution or a school district, except that college credit in an associate in applied science (AAS) or an associate in science (AS) degree may be awarded only by a FCS institution. However, if an AAS or an AS degree program contains an OCP that confers a certificate or an ATD, that portion of the program may be conducted by a school district career center.⁴⁰

Funding for Inmate Workforce Education Programs

Florida law limits how state funds may be used for inmates in workforce education programs. From 2018-2021, as a part of the appropriation implementation bill, the Legislature authorized specific appropriations to be used for the education of state or federal inmates, preempting a statutory provision that limited the use of such funds.⁴¹ However, on July 1, 2022, the 2021 provision will expire and the statute will revert to the language as it existed on July 1, 2019. As of that date, the statute that prohibits the use of state funds for the operation of postsecondary workforce programs on state inmates with more than 24 months remaining to serve and all federal inmates will be reinstated.⁴²

³⁴ An “applied technology diploma (ATD) program” means a course of study that is part of a technical degree program, is less than 60 credit hours, and leads to employment in a specific occupation. An ATD program may consist of either technical credit or college credit. A public school district may offer an ATD program only as technical credit, with college credit awarded to a student upon articulation to a Florida College System (FCS) institution. Section 1004.02(7), F.S.

³⁵ “Continuing workforce education” means instruction that does not result in a technical certificate, diploma, associate in applied science (AAS) degree, or associate in science (AS) degree. Continuing workforce education is for: (1) individuals who are required to have training for licensure renewal or certification renewal by a regulatory agency or credentialing body; (2) new or expanding businesses; (3) business, industry, and government agencies whose products or services are changing so that retraining of employees is necessary or whose employees need training in specific skills to increase efficiency and productivity; or (4) individuals who are enhancing occupational skills necessary to maintain current employment, to cross train, or to upgrade employment. Section 1004.02(12), F.S.

³⁶ A “degree career education program” or “technical degree education program” means a course of study that leads to an AAS degree or an AS degree. A technical degree program may contain within it one or more program progression points and may lead to certificates or diplomas within the course of study. Section 1004.02(13), F.S.

³⁷ Registered apprenticeship programs enable employers to develop and apply industry standards to training programs for registered apprentices that can increase productivity and improve the quality of the workforce. Apprentices who complete registered apprenticeship programs are accepted by the industry as journey workers. Florida Department of Education, *Apprenticeship Programs*, available at <http://fldoe.org/academics/career-adult-edu/apprenticeship-programs/> (last visited January 14, 2022).

³⁸ Registered pre-apprenticeship programs provide an avenue for both adults and youth who are at least 16 years old to become qualified to enter registered apprenticeship programs. Pre-apprenticeship programs are sponsored and operated by registered apprenticeship programs in the same trade or trades. Florida Department of Education, *Preapprenticeship*, available at <http://fldoe.org/academics/career-adult-edu/apprenticeship-programs/preapprenticeship.stml> (last visited January 14, 2022).

³⁹ Section 1011.80(1), F.S.

⁴⁰ Section 1011.80(2), F.S.

⁴¹ See ss. 44 and 45, ch. 2018-10; ss. 52 and 53, ch. 2019-116; ss. 53 and 54, ch. 2020-114; and s. 24, ch. 2021-37, Laws of Fla.

⁴² *Id.*

III. Effect of Proposed Changes:

The bill amends ss. 951.176 and 944.801, F.S., respectively, to authorize a county or municipal detention facility or the DOC to contract with a FCS institution to provide educational services. The educational services may include any educational, career, or vocational training that is authorized by a county or municipal detention facility or the DOC.

The bill affirmatively authorizes state funding for postsecondary workforce education programs to be expended on state inmates with 24 months or less remaining on their sentences, notwithstanding s. 1011.81(4), F.S., which prohibits state funds provided for the FCS Program Fund to be expended on the education of state or federal inmates.

The bill is effective July 1, 2022.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact is indeterminate as the costs for FCS institutions to provide programming is unknown. These costs may vary depending on the type of programming provided and the availability of resources.⁴³ The DOC states that there will also be an indeterminate cost for changes to its technological systems.⁴⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 944.801, 951.176, and 1011.80.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on February 1, 2022:**

The committee substitute:

- Removes federal inmates from the authorization for the expenditure of state funds on postsecondary education workforce programs.
- Adds that the expenditure of state funds on postsecondary workforce programs for state inmates is authorized notwithstanding s. 1011.81(4), F.S., which prohibits state funds provided for the Florida College System Program Fund from being expended for the education of state or federal inmates.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁴³ *Supra* note 19, at pg. 5.

⁴⁴ *Id.*, at pg. 7.