

By Senator Rouson

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1                   A bill to be entitled  
2       An act relating to criminal rehabilitation; amending  
3       s. 921.002, F.S.; revising the legislative intent of  
4       the Criminal Punishment Code; specifying that one of  
5       the dual purposes of sentencing is to rehabilitate the  
6       offender to transition back to the community  
7       successfully; reducing the minimum sentence that must  
8       be served by a defendant; conforming provisions to  
9       changes made by the act; amending s. 944.275, F.S.;  
10      revising provisions concerning gain-time to provide  
11      for outstanding deed gain-time, good behavior time,  
12      and rehabilitation credits; providing requirements for  
13      such gain-time and credits; providing for amounts to  
14      be awarded; revising limits on the award of gain-time;  
15      reducing the minimum sentence that must be served by a  
16      defendant; amending ss. 316.027, 316.1935, 381.004,  
17      775.084, 775.0845, 775.0847, 775.0861, 775.0862,  
18      775.087, 775.0875, 777.03, 777.04, 784.07, 794.011,  
19      794.0115, 794.023, 812.081, 817.568, 831.032, 843.22,  
20      874.04, 944.281, 944.473, 944.70, 944.801, and  
21      947.005, F.S.; conforming provisions to changes made  
22      by the act; providing an effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:

25  
26       Section 1. Subsection (1) of section 921.002, Florida  
27       Statutes, is amended to read:

28       921.002 The Criminal Punishment Code.—The Criminal  
29       Punishment Code shall apply to all felony offenses, except

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30 capital felonies, committed on or after October 1, 1998.

31 (1) The provision of criminal penalties and of limitations  
32 upon the application of such penalties is a matter of  
33 predominantly substantive law and, as such, is a matter properly  
34 addressed by the Legislature. The Legislature, in the exercise  
35 of its authority and responsibility to establish sentencing  
36 criteria, to provide for the imposition of criminal penalties,  
37 and to make the best use of state prisons so that ~~violent~~  
38 criminal offenders are appropriately punished and rehabilitated  
39 ~~incarcerated~~, has determined that it is in the best interest of  
40 the state to develop, implement, and revise a sentencing policy.  
41 The Criminal Punishment Code embodies the principles that:

42 (a) Sentencing is neutral with respect to race, gender, and  
43 social and economic status.

44 (b) The dual purposes ~~primary purpose~~ of sentencing in the  
45 criminal justice system are ~~is~~ to punish the offender and  
46 rehabilitate the offender to transition back to the community  
47 successfully. ~~Rehabilitation is a desired goal of the criminal~~  
48 ~~justice system but is subordinate to the goal of punishment.~~

49 (c) The penalty imposed is commensurate with the severity  
50 of the primary offense and the circumstances surrounding the  
51 primary offense.

52 (d) The severity of the sentence increases with the length  
53 and nature of the offender's prior record.

54 (e) The sentence imposed by the sentencing judge reflects  
55 the length of actual time to be served, shortened only by the  
56 application of outstanding deed ~~incentive and meritorious~~ gain-  
57 time, good behavior time, and rehabilitation credits as provided  
58 by law, and may not be shortened if the defendant would

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59 consequently serve less than 65 ~~85~~ percent of his or her term of  
60 imprisonment as provided in s. 944.275(4). The provisions of  
61 chapter 947, relating to parole, shall not apply to persons  
62 sentenced under the Criminal Punishment Code.

63 (f) Departures below the lowest permissible sentence  
64 established by the code must be articulated in writing by the  
65 trial court judge and made only when circumstances or factors  
66 reasonably justify the mitigation of the sentence. The level of  
67 proof necessary to establish facts that support a departure from  
68 the lowest permissible sentence is a preponderance of the  
69 evidence.

70 (g) The trial court judge may impose a sentence up to and  
71 including the statutory maximum for any offense, including an  
72 offense that is before the court due to a violation of probation  
73 or community control.

74 (h) A sentence may be appealed on the basis that it departs  
75 from the Criminal Punishment Code only if the sentence is below  
76 the lowest permissible sentence or as enumerated in s.  
77 924.06(1).

78 (i) Use of incarcerative sanctions is prioritized toward  
79 offenders convicted of serious offenses and certain offenders  
80 who have long prior records, in order to maximize the finite  
81 capacities of state and local correctional facilities.

82 Section 2. Section 944.275, Florida Statutes, is amended to  
83 read:

84 944.275 Outstanding deed gain-time, good behavior time, and  
85 rehabilitation credits.—

86 (1) The department is authorized to grant deductions from  
87 sentences in the form of outstanding deed gain-time, good

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88 behavior time, and rehabilitation credits in order to encourage  
89 satisfactory prisoner behavior, to provide incentive for  
90 prisoners to participate in productive activities, and to reward  
91 prisoners who perform outstanding deeds or services.

92 (2) (a) The department shall establish for each prisoner  
93 sentenced to a term of years a "maximum sentence expiration  
94 date," which shall be the date when the sentence or combined  
95 sentences imposed on a prisoner will expire. In establishing  
96 this date, the department shall reduce the total time to be  
97 served by any time lawfully credited.

98 (b) When a prisoner with an established maximum sentence  
99 expiration date is sentenced to an additional term or terms  
100 without having been released from custody, the department shall  
101 extend the maximum sentence expiration date by the length of  
102 time imposed in the new sentence or sentences, less lawful  
103 credits.

104 (c) When an escaped prisoner or a parole violator is  
105 returned to the custody of the department, the maximum sentence  
106 expiration date in effect when the escape occurred or the parole  
107 was effective shall be extended by the amount of time the  
108 prisoner was not in custody plus the time imposed in any new  
109 sentence or sentences, but reduced by any lawful credits.

110 (3) (a) The department shall also establish for each  
111 prisoner sentenced to a term of years a "tentative release date"  
112 which shall be the date projected for the prisoner's release  
113 from custody by virtue of outstanding deed gain-time, good  
114 behavior time, or rehabilitation credits granted or forfeited as  
115 described in this section. The initial tentative release date  
116 shall be determined by deducting outstanding deed ~~basic~~ gain-

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117 time, good behavior time, or rehabilitation credits granted from  
118 the maximum sentence expiration date. Outstanding deed ~~Other~~  
119 gain-time, good behavior time, and rehabilitation credits shall  
120 be applied when granted or restored to make the tentative  
121 release date proportionately earlier,~~†~~ and forfeitures of good  
122 behavior time ~~gain-time~~, when ordered, shall be applied to make  
123 the tentative release date proportionately later.

124 (b) When an initial tentative release date is reestablished  
125 because of additional sentences imposed before the prisoner has  
126 completely served all prior sentences, any outstanding deed  
127 gain-time, good behavior time, or rehabilitation credits granted  
128 during service of a prior sentence and not forfeited shall be  
129 applied.

130 (c) The tentative release date may not be later than the  
131 maximum sentence expiration date.

132 (4) (a) As a means of encouraging satisfactory behavior and  
133 developing character traits necessary for successful reentry,  
134 the department shall grant good behavior time ~~basic gain-time~~ at  
135 the rate of 10 days for each month of each sentence imposed on a  
136 prisoner, subject to the following:

137 1. Portions of any sentences to be served concurrently  
138 shall be treated as a single sentence when determining good  
139 behavior time ~~basic gain-time~~.

140 2. Good behavior time ~~Basic gain-time~~ for a partial month  
141 shall be prorated on the basis of a 30-day month.

142 3. When a prisoner receives a new maximum sentence  
143 expiration date because of additional sentences imposed, good  
144 behavior time ~~basic gain-time~~ shall be granted for the amount of  
145 time the maximum sentence expiration date was extended.

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146 (b) For each month in which an inmate works diligently,  
147 participates in training or education, uses time constructively,  
148 or otherwise engages in positive activities, the department may  
149 grant rehabilitation credits ~~incentive gain-time~~ in accordance  
150 with this paragraph. The rate of rehabilitation credits  
151 ~~incentive gain-time~~ in effect on the date the inmate committed  
152 the offense which resulted in his or her incarceration shall be  
153 the inmate's rate of eligibility to earn rehabilitation credits  
154 ~~incentive gain-time~~ throughout the period of incarceration and  
155 shall not be altered by a subsequent change in the severity  
156 level of the offense for which the inmate was sentenced.

157 1. For sentences imposed for offenses committed before  
158 ~~prior to~~ January 1, 1994, and after October 1, 1995, up to 20  
159 days of rehabilitation credits ~~incentive gain-time~~ may be  
160 granted. If granted, such rehabilitation credits ~~gain-time~~ shall  
161 be credited and applied monthly.

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

164 a. For offenses ranked in offense severity levels 1 through  
165 7, under former s. 921.0012 or former s. 921.0013, up to 25 days  
166 of rehabilitation credits ~~incentive gain-time~~ may be granted. If  
167 granted, such rehabilitation credits ~~gain-time~~ shall be credited  
168 and applied monthly.

169 b. For offenses ranked in offense severity levels 8, 9, and  
170 10, under former s. 921.0012 or former s. 921.0013, up to 20  
171 days of incentive gain-time may be granted. If granted, such  
172 gain-time shall be credited and applied monthly.

173 ~~3. For sentences imposed for offenses committed on or after~~  
174 ~~October 1, 1995, the department may grant up to 10 days per~~

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175 ~~month of incentive gain time.~~

176 (c) An inmate who performs some outstanding deed, such as  
177 saving a life or assisting in recapturing an escaped inmate, or  
178 who in some manner performs an outstanding service that would  
179 merit the granting of additional deductions from the term of his  
180 or her sentence may be granted outstanding deed meritorious  
181 gain-time of from 30 ~~±~~ to 60 days per outstanding deed  
182 performed.

183 (d) Notwithstanding the monthly maximum awards of  
184 rehabilitation credits incentive gain-time under subparagraphs  
185 (b)1. and, 2., and 3., the education program manager shall  
186 recommend, and the department shall of Corrections may grant  
187 awards, a one-time award of 60 additional days of rehabilitation  
188 credits to prisoners for successful completion of each of the  
189 following: incentive gain-time to an inmate who is otherwise  
190 eligible and who successfully completes requirements for and is,  
191 or has been during the current commitment, awarded a high school  
192 equivalency diploma, college degree, or vocational certificate  
193 or a drug treatment program, mental health treatment program,  
194 life skills program, behavioral modification program, or reentry  
195 program, or any equivalent rehabilitative program. Additionally,  
196 the department shall grant 5 additional days of rehabilitation  
197 credits for successful completion of any other department-  
198 approved program, including inmate-developed programs, or a  
199 passing grade in each online or in-person educational course.  
200 Rehabilitation credits awarded under this paragraph shall be  
201 retroactive. Under no circumstances may an inmate receive more  
202 than 60 days for educational attainment pursuant to this  
203 section.

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204 (e) Notwithstanding the monthly maximum awards of  
205 rehabilitation credits under subparagraphs (b)1. and 2., the  
206 department may grant 2 additional days per month of good  
207 behavior time to prisoners serving sentences for violations of  
208 ss. 893.13 and 893.135. Good behavior time granted under this  
209 paragraph shall be retroactive.

210 (f)~~(e)~~ Notwithstanding subparagraph (b)1. ~~(b)3.~~, for  
211 sentences imposed for offenses committed on or after October 1,  
212 2014, the department may not grant rehabilitation credits  
213 ~~incentive gain-time~~ if the offense is a violation of s.  
214 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or  
215 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s.  
216 825.1025; or s. 847.0135(5).

217 (g)1.~~(f)~~ An inmate who is subject to this subsection  
218 ~~subparagraph (b)3.~~ is not eligible to earn or receive  
219 outstanding deed gain-time or good behavior time ~~under paragraph~~  
220 ~~(a), paragraph (b), paragraph (c), or paragraph (d) or any other~~  
221 ~~type of gain-time~~ in an amount that would cause a sentence to  
222 expire, end, or terminate, or that would result in a prisoner's  
223 release, before ~~prior to~~ serving a minimum of 85 percent of the  
224 sentence imposed. For purposes of this paragraph, credits  
225 awarded by the court for time physically incarcerated shall be  
226 credited toward satisfaction of 85 percent of the sentence  
227 imposed.

228 2. A prisoner who is subject to this subsection may not  
229 accumulate rehabilitation credits as described in paragraph (d)  
230 in an amount that would allow a sentence to expire, end, or  
231 terminate, or that would result in a prisoner's release, before  
232 serving a minimum of 65 percent of the sentence imposed.



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233       3. Except as provided by this section, a prisoner may not  
234 accumulate further ~~gain-time~~ awards at any point when the  
235 tentative release date is the same as that date at which the  
236 prisoner will have served 65 ~~85~~ percent of the sentence imposed.  
237 State prisoners sentenced to life imprisonment shall be  
238 incarcerated for the rest of their natural lives, unless granted  
239 pardon or clemency.

240       (5) When a prisoner is found guilty of an infraction of the  
241 laws of this state or the rules of the department, good behavior  
242 time not yet vested ~~gain-time~~ may be forfeited according to law  
243 after due process. For purposes of this subsection, good  
244 behavior time is deemed vested 2 years after being granted.

245       (6) (a) Good behavior time ~~Basic gain-time~~ under this  
246 section shall be computed on and applied to all sentences  
247 imposed for offenses committed on or after July 1, 1978, and  
248 before January 1, 1994.

249       (b) All outstanding deed incentive and meritorious gain-  
250 time, good behavior time, and rehabilitation credits are ~~is~~  
251 granted according to this section.

252       (c) All additional gain-time previously awarded under  
253 former subsections (2) and (3) and all forfeitures ordered  
254 before ~~prior to~~ the effective date of the act that created this  
255 section shall remain in effect and be applied in establishing an  
256 initial tentative release date.

257       (7) The department shall adopt rules to implement the  
258 granting, forfeiture, restoration, and deletion of outstanding  
259 deed gain-time, good behavior time, and rehabilitation credits.

260       Section 3. Paragraph (f) of subsection (2) of section  
261 316.027, Florida Statutes, is amended to read:

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262 316.027 Crash involving death or personal injuries.—

263 (2)

264 (f) For purposes of sentencing under chapter 921 and  
 265 determining rehabilitation credit ~~incentive gain-time~~  
 266 eligibility under chapter 944, an offense listed in this  
 267 subsection is ranked one level above the ranking specified in s.  
 268 921.0022 or s. 921.0023 for the offense committed if the victim  
 269 of the offense was a vulnerable road user.

270 Section 4. Subsection (6) of section 316.1935, Florida  
 271 Statutes, is amended to read:

272 316.1935 Fleeing or attempting to elude a law enforcement  
 273 officer; aggravated fleeing or eluding.—

274 (6) Notwithstanding s. 948.01, no court may suspend, defer,  
 275 or withhold adjudication of guilt or imposition of sentence for  
 276 any violation of this section. A person convicted and sentenced  
 277 to a mandatory minimum term of incarceration under paragraph  
 278 (3) (b) or paragraph (4) (b) is not eligible for statutory gain-  
 279 time or credits under s. 944.275 or any form of discretionary  
 280 early release, other than pardon or executive clemency or  
 281 conditional medical release under s. 947.149, before ~~prior to~~  
 282 serving the mandatory minimum sentence.

283 Section 5. Paragraph (h) of subsection (2) of section  
 284 381.004, Florida Statutes, is amended to read:

285 381.004 HIV testing.—

286 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT;  
 287 RESULTS; COUNSELING; CONFIDENTIALITY.—

288 (h) Paragraph (a) does not apply:

289 1. When testing for sexually transmissible diseases is  
 290 required by state or federal law, or by rule, including the

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291 following situations:

292 a. HIV testing pursuant to s. 796.08 of persons convicted  
293 of prostitution or of procuring another to commit prostitution.

294 b. HIV testing of inmates pursuant to s. 945.355 before  
295 their release from prison by reason of parole, accumulation of  
296 gain-time or other credits, or expiration of sentence.

297 c. Testing for HIV by a medical examiner in accordance with  
298 s. 406.11.

299 d. HIV testing of pregnant women pursuant to s. 384.31.

300 2. To those exceptions provided for blood, plasma, organs,  
301 skin, semen, or other human tissue pursuant to s. 381.0041.

302 3. For the performance of an HIV-related test by licensed  
303 medical personnel in bona fide medical emergencies if the test  
304 results are necessary for medical diagnostic purposes to provide  
305 appropriate emergency care or treatment to the person being  
306 tested and the patient is unable to consent, as supported by  
307 documentation in the medical record. Notification of test  
308 results in accordance with paragraph (c) is required.

309 4. For the performance of an HIV-related test by licensed  
310 medical personnel for medical diagnosis of acute illness where,  
311 in the opinion of the attending physician, providing  
312 notification would be detrimental to the patient, as supported  
313 by documentation in the medical record, and the test results are  
314 necessary for medical diagnostic purposes to provide appropriate  
315 care or treatment to the person being tested. Notification of  
316 test results in accordance with paragraph (c) is required if it  
317 would not be detrimental to the patient. This subparagraph does  
318 not authorize the routine testing of patients for HIV infection  
319 without notification.

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320 5. If HIV testing is performed as part of an autopsy for  
321 which consent was obtained pursuant to s. 872.04.

322 6. For the performance of an HIV test upon a defendant  
323 pursuant to the victim's request in a prosecution for any type  
324 of sexual battery where a blood sample is taken from the  
325 defendant voluntarily, pursuant to court order for any purpose,  
326 or pursuant to s. 775.0877, s. 951.27, or s. 960.003; however,  
327 the results of an HIV test performed shall be disclosed solely  
328 to the victim and the defendant, except as provided in ss.  
329 775.0877, 951.27, and 960.003.

330 7. If an HIV test is mandated by court order.

331 8. For epidemiological research pursuant to s. 381.0031,  
332 for research consistent with institutional review boards created  
333 by 45 C.F.R. part 46, or for the performance of an HIV-related  
334 test for the purpose of research, if the testing is performed in  
335 a manner by which the identity of the test subject is not known  
336 and may not be retrieved by the researcher.

337 9. If human tissue is collected lawfully without the  
338 consent of the donor for corneal removal as authorized by s.  
339 765.5185 or enucleation of the eyes as authorized by s. 765.519.

340 10. For the performance of an HIV test upon an individual  
341 who comes into contact with medical personnel in such a way that  
342 a significant exposure has occurred during the course of  
343 employment, within the scope of practice, or during the course  
344 of providing emergency medical assistance to the individual. The  
345 term "medical personnel" includes a licensed or certified health  
346 care professional; an employee of a health care professional or  
347 health care facility; employees of a laboratory licensed under  
348 chapter 483; personnel of a blood bank or plasma center; a

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349 medical student or other student who is receiving training as a  
350 health care professional at a health care facility; and a  
351 paramedic or emergency medical technician certified by the  
352 department to perform life-support procedures under s. 401.23.

353 a. The occurrence of a significant exposure shall be  
354 documented by medical personnel under the supervision of a  
355 licensed physician and recorded only in the personnel record of  
356 the medical personnel.

357 b. Costs of an HIV test shall be borne by the medical  
358 personnel or the employer of the medical personnel. However,  
359 costs of testing or treatment not directly related to the  
360 initial HIV tests or costs of subsequent testing or treatment  
361 may not be borne by the medical personnel or the employer of the  
362 medical personnel.

363 c. In order to use the provisions of this subparagraph, the  
364 medical personnel must be tested for HIV pursuant to this  
365 section or provide the results of an HIV test taken within 6  
366 months before the significant exposure if such test results are  
367 negative.

368 d. A person who receives the results of an HIV test  
369 pursuant to this subparagraph shall maintain the confidentiality  
370 of the information received and of the persons tested. Such  
371 confidential information is exempt from s. 119.07(1).

372 e. If the source of the exposure is not available and will  
373 not voluntarily present himself or herself to a health facility  
374 to be tested for HIV, the medical personnel or the employer of  
375 such person acting on behalf of the employee may seek a court  
376 order directing the source of the exposure to submit to HIV  
377 testing. A sworn statement by a physician licensed under chapter

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378 458 or chapter 459 that a significant exposure has occurred and  
379 that, in the physician's medical judgment, testing is medically  
380 necessary to determine the course of treatment constitutes  
381 probable cause for the issuance of an order by the court. The  
382 results of the test shall be released to the source of the  
383 exposure and to the person who experienced the exposure.

384 11. For the performance of an HIV test upon an individual  
385 who comes into contact with nonmedical personnel in such a way  
386 that a significant exposure has occurred while the nonmedical  
387 personnel provides emergency medical assistance during a medical  
388 emergency. For the purposes of this subparagraph, a medical  
389 emergency means an emergency medical condition outside of a  
390 hospital or health care facility that provides physician care.  
391 The test may be performed only during the course of treatment  
392 for the medical emergency.

393 a. The occurrence of a significant exposure shall be  
394 documented by medical personnel under the supervision of a  
395 licensed physician and recorded in the medical record of the  
396 nonmedical personnel.

397 b. Costs of any HIV test shall be borne by the nonmedical  
398 personnel or the employer of the nonmedical personnel. However,  
399 costs of testing or treatment not directly related to the  
400 initial HIV tests or costs of subsequent testing or treatment  
401 may not be borne by the nonmedical personnel or the employer of  
402 the nonmedical personnel.

403 c. In order to use the provisions of this subparagraph, the  
404 nonmedical personnel shall be tested for HIV pursuant to this  
405 section or shall provide the results of an HIV test taken within  
406 6 months before the significant exposure if such test results

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407 are negative.

408 d. A person who receives the results of an HIV test  
409 pursuant to this subparagraph shall maintain the confidentiality  
410 of the information received and of the persons tested. Such  
411 confidential information is exempt from s. 119.07(1).

412 e. If the source of the exposure is not available and will  
413 not voluntarily present himself or herself to a health facility  
414 to be tested for HIV, the nonmedical personnel or the employer  
415 of the nonmedical personnel acting on behalf of the employee may  
416 seek a court order directing the source of the exposure to  
417 submit to HIV testing. A sworn statement by a physician licensed  
418 under chapter 458 or chapter 459 that a significant exposure has  
419 occurred and that, in the physician's medical judgment, testing  
420 is medically necessary to determine the course of treatment  
421 constitutes probable cause for the issuance of an order by the  
422 court. The results of the test shall be released to the source  
423 of the exposure and to the person who experienced the exposure.

424 12. For the performance of an HIV test by the medical  
425 examiner or attending physician upon an individual who expired  
426 or could not be resuscitated while receiving emergency medical  
427 assistance or care and who was the source of a significant  
428 exposure to medical or nonmedical personnel providing such  
429 assistance or care.

430 a. HIV testing may be conducted only after appropriate  
431 medical personnel under the supervision of a licensed physician  
432 documents in the medical record of the medical personnel or  
433 nonmedical personnel that there has been a significant exposure  
434 and that, in accordance with the written protocols based on the  
435 National Centers for Disease Control and Prevention guidelines

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436 on HIV postexposure prophylaxis and in the physician's medical  
437 judgment, the information is medically necessary to determine  
438 the course of treatment for the medical personnel or nonmedical  
439 personnel.

440 b. Costs of an HIV test performed under this subparagraph  
441 may not be charged to the deceased or to the family of the  
442 deceased person.

443 c. For this subparagraph to be applicable, the medical  
444 personnel or nonmedical personnel must be tested for HIV under  
445 this section or must provide the results of an HIV test taken  
446 within 6 months before the significant exposure if such test  
447 results are negative.

448 d. A person who receives the results of an HIV test  
449 pursuant to this subparagraph shall comply with paragraph (e).

450 13. For the performance of an HIV-related test medically  
451 indicated by licensed medical personnel for medical diagnosis of  
452 a hospitalized infant as necessary to provide appropriate care  
453 and treatment of the infant if, after a reasonable attempt, a  
454 parent cannot be contacted to provide consent. The medical  
455 records of the infant must reflect the reason consent of the  
456 parent was not initially obtained. Test results shall be  
457 provided to the parent when the parent is located.

458 14. For the performance of HIV testing conducted to monitor  
459 the clinical progress of a patient previously diagnosed to be  
460 HIV positive.

461 15. For the performance of repeated HIV testing conducted  
462 to monitor possible conversion from a significant exposure.

463 Section 6. Paragraph (k) of subsection (4) of section  
464 775.084, Florida Statutes, is amended to read:



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465 775.084 Violent career criminals; habitual felony offenders  
466 and habitual violent felony offenders; three-time violent felony  
467 offenders; definitions; procedure; enhanced penalties or  
468 mandatory minimum prison terms.-

469 (4)

470 (k)1. A defendant sentenced under this section as a  
471 habitual felony offender, a habitual violent felony offender, or  
472 a violent career criminal is eligible for rehabilitation credits  
473 ~~gain-time~~ granted by the Department of Corrections as provided  
474 in s. 944.275(4)(b).

475 2. For an offense committed on or after October 1, 1995, a  
476 defendant sentenced under this section as a violent career  
477 criminal is not eligible for any form of discretionary early  
478 release, other than pardon or executive clemency, or conditional  
479 medical release granted pursuant to s. 947.149.

480 3. For an offense committed on or after July 1, 1999, a  
481 defendant sentenced under this section as a three-time violent  
482 felony offender shall be released only by expiration of sentence  
483 and shall not be eligible for parole, control release, or any  
484 form of early release.

485 Section 7. Paragraph (b) of subsection (1) and subsection  
486 (2) of section 775.0845, Florida Statutes, are amended to read:

487 775.0845 Wearing mask while committing offense;  
488 reclassification.-The felony or misdemeanor degree of any  
489 criminal offense, other than a violation of ss. 876.12-876.15,  
490 shall be reclassified to the next higher degree as provided in  
491 this section if, while committing the offense, the offender was  
492 wearing a hood, mask, or other device that concealed his or her  
493 identity.

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494 (1)

495 (b) In the case of a misdemeanor of the first degree, the  
496 offense is reclassified to a felony of the third degree. For  
497 purposes of sentencing under chapter 921 and determining  
498 rehabilitation credit ~~incentive gain time~~ eligibility under  
499 chapter 944, such offense is ranked in level 2 of the offense  
500 severity ranking chart.

501 (2) (a) In the case of a felony of the third degree, the  
502 offense is reclassified to a felony of the second degree.

503 (b) In the case of a felony of the second degree, the  
504 offense is reclassified to a felony of the first degree.

505

506 For purposes of sentencing under chapter 921 and determining  
507 rehabilitation credit ~~incentive gain time~~ eligibility under  
508 chapter 944, a felony offense that is reclassified under this  
509 subsection is ranked one level above the ranking under former s.  
510 921.0012, former s. 921.0013, s. 921.0022, or s. 921.0023 of the  
511 offense committed.

512 Section 8. Subsection (3) of section 775.0847, Florida  
513 Statutes, is amended, and subsection (2) of that section is  
514 republished, to read:

515 775.0847 Possession or promotion of certain images of child  
516 pornography; reclassification.—

517 (2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or  
518 s. 847.0138 shall be reclassified to the next higher degree as  
519 provided in subsection (3) if:

520 (a) The offender possesses 10 or more images of any form of  
521 child pornography regardless of content; and

522 (b) The content of at least one image contains one or more

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523 of the following:

- 524 1. A child who is younger than the age of 5.
- 525 2. Sadomasochistic abuse involving a child.
- 526 3. Sexual battery involving a child.
- 527 4. Sexual bestiality involving a child.
- 528 5. Any motion picture, film, video, or computer-generated
- 529 motion picture, film, or video involving a child, regardless of
- 530 length and regardless of whether the motion picture, film,
- 531 video, or computer-generated motion picture, film, or video
- 532 contains sound.

533 (3) (a) In the case of a felony of the third degree, the

534 offense is reclassified to a felony of the second degree.

535 (b) In the case of a felony of the second degree, the

536 offense is reclassified to a felony of the first degree.

537

538 For purposes of sentencing under chapter 921 and determining

539 rehabilitation credit ~~incentive gain-time~~ eligibility under

540 chapter 944, a felony offense that is reclassified under this

541 section is ranked one level above the ranking under s. 921.0022

542 or s. 921.0023 of the offense committed.

543 Section 9. Subsection (3) of section 775.0861, Florida

544 Statutes, is amended to read:

545 775.0861 Offenses against persons on the grounds of

546 religious institutions; reclassification.—

547 (3) (a) In the case of a misdemeanor of the second degree,

548 the offense is reclassified to a misdemeanor of the first

549 degree.

550 (b) In the case of a misdemeanor of the first degree, the

551 offense is reclassified to a felony of the third degree. For

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552 purposes of sentencing under chapter 921, such offense is ranked  
553 in level 2 of the offense severity ranking chart.

554 (c) In the case of a felony of the third degree, the  
555 offense is reclassified to a felony of the second degree.

556 (d) In the case of a felony of the second degree, the  
557 offense is reclassified to a felony of the first degree.

558 (e) In the case of a felony of the first degree, the  
559 offense is reclassified to a life felony.

560

561 For purposes of sentencing under chapter 921 and determining  
562 rehabilitation credit ~~incentive gain time~~ eligibility under  
563 chapter 944, a felony offense that is reclassified under this  
564 subsection is ranked one level above the ranking under s.  
565 921.0022 or s. 921.0023 of the offense committed.

566 Section 10. Subsection (3) of section 775.0862, Florida  
567 Statutes, is amended to read:

568 775.0862 Sexual offenses against students by authority  
569 figures; reclassification.—

570 (3) (a) In the case of a felony of the third degree, the  
571 offense is reclassified to a felony of the second degree.

572 (b) In the case of a felony of the second degree, the  
573 offense is reclassified to a felony of the first degree.

574 (c) In the case of a felony of the first degree, the  
575 offense is reclassified to a life felony.

576

577 For purposes of sentencing under chapter 921 and determining  
578 rehabilitation credit ~~incentive gain time~~ eligibility under  
579 chapter 944, a felony offense that is reclassified under this  
580 subsection is ranked one level above the ranking under s.

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581 921.0022 or s. 921.0023 of the offense committed.

582 Section 11. Subsection (1) and paragraph (b) of subsection  
583 (2) of section 775.087, Florida Statutes, are amended to read:

584 775.087 Possession or use of weapon; aggravated battery;  
585 felony reclassification; minimum sentence.—

586 (1) Unless otherwise provided by law, whenever a person is  
587 charged with a felony, except a felony in which the use of a  
588 weapon or firearm is an essential element, and during the  
589 commission of such felony the defendant carries, displays, uses,  
590 threatens to use, or attempts to use any weapon or firearm, or  
591 during the commission of such felony the defendant commits an  
592 aggravated battery, the felony for which the person is charged  
593 shall be reclassified as follows:

594 (a) In the case of a felony of the first degree, to a life  
595 felony.

596 (b) In the case of a felony of the second degree, to a  
597 felony of the first degree.

598 (c) In the case of a felony of the third degree, to a  
599 felony of the second degree.

600

601 For purposes of sentencing under chapter 921 and determining  
602 rehabilitation credit ~~incentive gain-time~~ eligibility under  
603 chapter 944, a felony offense which is reclassified under this  
604 section is ranked one level above the ranking under s. 921.0022  
605 or s. 921.0023 of the felony offense committed.

606 (2)

607 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph  
608 (a)3. does not prevent a court from imposing a longer sentence  
609 of incarceration as authorized by law in addition to the minimum

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610 mandatory sentence, or from imposing a sentence of death  
611 pursuant to other applicable law. Subparagraph (a)1.,  
612 subparagraph (a)2., or subparagraph (a)3. does not authorize a  
613 court to impose a lesser sentence than otherwise required by  
614 law.

615  
616 Notwithstanding s. 948.01, adjudication of guilt or imposition  
617 of sentence shall not be suspended, deferred, or withheld, and  
618 the defendant is not eligible for statutory gain-time or credits  
619 under s. 944.275 or any form of discretionary early release,  
620 other than pardon or executive clemency, or conditional medical  
621 release under s. 947.149, before ~~prior to~~ serving the minimum  
622 sentence.

623 Section 12. Subsection (2) of section 775.0875, Florida  
624 Statutes, is amended to read:

625 775.0875 Unlawful taking, possession, or use of law  
626 enforcement officer's firearm; crime reclassification;  
627 penalties.—

628 (2) If a person violates subsection (1) and commits any  
629 other crime involving the firearm taken from the law enforcement  
630 officer, such crime shall be reclassified as follows:

631 (a)1. In the case of a felony of the first degree, to a  
632 life felony.

633 2. In the case of a felony of the second degree, to a  
634 felony of the first degree.

635 3. In the case of a felony of the third degree, to a felony  
636 of the second degree.

637  
638 For purposes of sentencing under chapter 921 and determining

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639 rehabilitation credit ~~incentive gain-time~~ eligibility under  
640 chapter 944, a felony offense that is reclassified under this  
641 paragraph is ranked one level above the ranking under s.  
642 921.0022 or s. 921.0023 of the felony offense committed.

643 (b) In the case of a misdemeanor, to a felony of the third  
644 degree. For purposes of sentencing under chapter 921 and  
645 determining rehabilitation credit ~~incentive gain-time~~  
646 eligibility under chapter 944, such offense is ranked in level 2  
647 of the offense severity ranking chart.

648 Section 13. Subsection (3) of section 777.03, Florida  
649 Statutes, is amended to read:

650 777.03 Accessory after the fact.—

651 (3) Except as otherwise provided in s. 921.0022, for  
652 purposes of sentencing under chapter 921 and determining  
653 rehabilitation credit ~~incentive gain-time~~ eligibility under  
654 chapter 944, the offense of accessory after the fact is ranked  
655 two levels below the ranking under s. 921.0022 or s. 921.0023 of  
656 the felony offense committed.

657 Section 14. Paragraph (a) of subsection (4) of section  
658 777.04, Florida Statutes, is amended to read:

659 777.04 Attempts, solicitation, and conspiracy.—

660 (4) (a) Except as otherwise provided in ss. 104.091(2),  
661 379.2431(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022,  
662 the offense of criminal attempt, criminal solicitation, or  
663 criminal conspiracy is ranked for purposes of sentencing under  
664 chapter 921 and determining rehabilitation credit ~~incentive~~  
665 ~~gain-time~~ eligibility under chapter 944 one level below the  
666 ranking under s. 921.0022 or s. 921.0023 of the offense  
667 attempted, solicited, or conspired to. If the criminal attempt,

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668 criminal solicitation, or criminal conspiracy is of an offense  
669 ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023,  
670 such offense is a misdemeanor of the first degree, punishable as  
671 provided in s. 775.082 or s. 775.083.

672 Section 15. Subsection (3) of section 784.07, Florida  
673 Statutes, is amended to read:

674 784.07 Assault or battery of law enforcement officers,  
675 firefighters, emergency medical care providers, public transit  
676 employees or agents, or other specified officers;  
677 reclassification of offenses; minimum sentences.—

678 (3) Any person who is convicted of a battery under  
679 paragraph (2)(b) and, during the commission of the offense, such  
680 person possessed:

681 (a) A "firearm" or "destructive device" as those terms are  
682 defined in s. 790.001, shall be sentenced to a minimum term of  
683 imprisonment of 3 years.

684 (b) A semiautomatic firearm and its high-capacity  
685 detachable box magazine, as defined in s. 775.087(3), or a  
686 machine gun as defined in s. 790.001, shall be sentenced to a  
687 minimum term of imprisonment of 8 years.

688  
689 Notwithstanding s. 948.01, adjudication of guilt or imposition  
690 of sentence shall not be suspended, deferred, or withheld, and  
691 the defendant is not eligible for statutory gain-time or credits  
692 under s. 944.275 or any form of discretionary early release,  
693 other than pardon or executive clemency, or conditional medical  
694 release under s. 947.149, before ~~prior to~~ serving the minimum  
695 sentence.

696 Section 16. Subsection (7) of section 794.011, Florida



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697 Statutes, is amended to read:

698 794.011 Sexual battery.—

699 (7) A person who is convicted of committing a sexual  
700 battery on or after October 1, 1992, is not eligible for ~~basic~~  
701 gain-time or credits under s. 944.275. This subsection may be  
702 cited as the "Junny Rios-Martinez, Jr. Act of 1992."

703 Section 17. Subsection (7) of section 794.0115, Florida  
704 Statutes, is amended to read:

705 794.0115 Dangerous sexual felony offender; mandatory  
706 sentencing.—

707 (7) A defendant sentenced to a mandatory minimum term of  
708 imprisonment under this section is not eligible for statutory  
709 gain-time or credits under s. 944.275 or any form of  
710 discretionary early release, other than pardon or executive  
711 clemency, or conditional medical release under s. 947.149,  
712 before serving the minimum sentence.

713 Section 18. Subsection (2) of section 794.023, Florida  
714 Statutes, is amended to read:

715 794.023 Sexual battery by multiple perpetrators;  
716 reclassification of offenses.—

717 (2) A violation of s. 794.011 shall be reclassified as  
718 provided in this subsection if it is charged and proven by the  
719 prosecution that, during the same criminal transaction or  
720 episode, more than one person committed an act of sexual battery  
721 on the same victim.

722 (a) A felony of the second degree is reclassified to a  
723 felony of the first degree.

724 (b) A felony of the first degree is reclassified to a life  
725 felony.

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726

727 This subsection does not apply to life felonies or capital  
728 felonies. For purposes of sentencing under chapter 921 and  
729 determining rehabilitation credit ~~incentive gain-time~~  
730 eligibility under chapter 944, a felony offense that is  
731 reclassified under this subsection is ranked one level above the  
732 ranking under s. 921.0022 or s. 921.0023 of the offense  
733 committed.

734 Section 19. Subsection (4) of section 812.081, Florida  
735 Statutes, is amended to read:

736 812.081 Theft of or trafficking in trade secrets;  
737 definitions; penalties; providing to foreign entities;  
738 restitution.—

739 (4) Whenever a person is charged with a violation of this  
740 section which was committed with the intent to benefit a foreign  
741 government, a foreign agent, or a foreign instrumentality, the  
742 offense for which the person is charged shall be reclassified as  
743 follows:

744 (a) In the case of theft of a trade secret, from a felony  
745 of the third degree to a felony of the second degree.

746 (b) In the case of trafficking in trade secrets, from a  
747 felony of the second degree to a felony of the first degree.

748

749 For purposes of sentencing under chapter 921 and determining  
750 ~~incentive gain-time~~ or credit eligibility under chapter 944, a  
751 felony offense that is reclassified under this subsection is  
752 ranked one level above the ranking under s. 921.0022 of the  
753 offense committed.

754 Section 20. Subsection (5) of section 817.568, Florida

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755 Statutes, is amended to read:

756 817.568 Criminal use of personal identification  
757 information.—

758 (5) If an offense prohibited under this section was  
759 facilitated or furthered by the use of a public record, as  
760 defined in s. 119.011, the offense is reclassified to the next  
761 higher degree as follows:

762 (a) A misdemeanor of the first degree is reclassified as a  
763 felony of the third degree.

764 (b) A felony of the third degree is reclassified as a  
765 felony of the second degree.

766 (c) A felony of the second degree is reclassified as a  
767 felony of the first degree.

768

769 For purposes of sentencing under chapter 921 and rehabilitation  
770 credit ~~incentive gain-time~~ eligibility under chapter 944, a  
771 felony offense that is reclassified under this subsection is  
772 ranked one level above the ranking under s. 921.0022 of the  
773 felony offense committed, and a misdemeanor offense that is  
774 reclassified under this subsection is ranked in level 2 of the  
775 offense severity ranking chart in s. 921.0022.

776 Section 21. Paragraph (b) of subsection (3) of section  
777 831.032, Florida Statutes, is amended to read:

778 831.032 Offenses involving forging or counterfeiting  
779 private labels.—

780 (3)

781 (b) For any person who, having previously been convicted  
782 for an offense under this section, is subsequently convicted for  
783 another offense under this section, such subsequent offense

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784 shall be reclassified as follows:

785 1. In the case of a felony of the second degree, to a  
786 felony of the first degree.

787 2. In the case of a felony of the third degree, to a felony  
788 of the second degree.

789 3. In the case of a misdemeanor of the first degree, to a  
790 felony of the third degree. For purposes of sentencing under  
791 chapter 921 and determining rehabilitation credit incentive  
792 ~~gain-time~~ eligibility under chapter 944, such offense is ranked  
793 in level 4 of the offense severity ranking chart.

794

795 For purposes of sentencing under chapter 921 and determining  
796 rehabilitation credit incentive ~~gain-time~~ eligibility under  
797 chapter 944, a felony offense that is reclassified under this  
798 paragraph is ranked one level above the ranking under s.  
799 921.0022 or s. 921.0023 of the felony offense committed.

800 Section 22. Subsection (2) of section 843.22, Florida  
801 Statutes, is amended to read:

802 843.22 Traveling across county lines with intent to commit  
803 a burglary.—

804 (2) If a person who commits a burglary travels any distance  
805 with the intent to commit the burglary in a county in this state  
806 other than the person's county of residence, the degree of the  
807 burglary shall be reclassified to the next higher degree. For  
808 purposes of sentencing under chapter 921 and determining  
809 rehabilitation credit incentive ~~gain-time~~ eligibility under  
810 chapter 944, a burglary that is reclassified under this section  
811 is ranked one level above the ranking specified in s. 921.0022  
812 or s. 921.0023 for the burglary committed.

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813 Section 23. Paragraph (b) of subsection (1) and subsection  
814 (2) of section 874.04, Florida Statutes, are amended to read:

815 874.04 Gang-related offenses; enhanced penalties.—Upon a  
816 finding by the factfinder that the defendant committed the  
817 charged offense for the purpose of benefiting, promoting, or  
818 furthering the interests of a criminal gang, the penalty for any  
819 felony or misdemeanor, or any delinquent act or violation of law  
820 which would be a felony or misdemeanor if committed by an adult,  
821 may be enhanced. Penalty enhancement affects the applicable  
822 statutory maximum penalty only. Each of the findings required as  
823 a basis for such sentence shall be found beyond a reasonable  
824 doubt. The enhancement will be as follows:

825 (1)

826 (b) A misdemeanor of the first degree may be punished as if  
827 it were a felony of the third degree. For purposes of sentencing  
828 under chapter 921 and determining rehabilitation credit  
829 ~~incentive gain time~~ eligibility under chapter 944, such offense  
830 is ranked in level 1 of the offense severity ranking chart. The  
831 criminal gang multiplier in s. 921.0024 does not apply to  
832 misdemeanors enhanced under this paragraph.

833 (2) (a) A felony of the third degree may be punished as if  
834 it were a felony of the second degree.

835 (b) A felony of the second degree may be punished as if it  
836 were a felony of the first degree.

837 (c) A felony of the first degree may be punished as if it  
838 were a life felony.

839

840 For purposes of sentencing under chapter 921 and determining  
841 rehabilitation credit ~~incentive gain time~~ eligibility under

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842 chapter 944, such felony offense is ranked as provided in s.  
843 921.0022 or s. 921.0023, and without regard to the penalty  
844 enhancement in this subsection.

845 Section 24. Section 944.281, Florida Statutes, is amended  
846 to read:

847 944.281 Ineligibility to earn gain-time due to disciplinary  
848 action.—The department may declare that a prisoner who commits a  
849 violation of any law of the state or rule or regulation of the  
850 department or institution on or after January 1, 1996, and who  
851 is found guilty pursuant to s. 944.28(2), shall not be eligible  
852 to earn rehabilitation credits ~~incentive gain-time~~ for up to 6  
853 months following the month in which the violation occurred. The  
854 department shall adopt rules to administer ~~the provisions of~~  
855 this section.

856 Section 25. Subsection (1) of section 944.473, Florida  
857 Statutes, is amended to read:

858 944.473 Inmate substance abuse testing program.—

859 (1) RULES AND PROCEDURES.—The department shall establish  
860 programs for random and reasonable suspicion drug and alcohol  
861 testing by urinalysis or other noninvasive procedure for inmates  
862 to effectively identify those inmates abusing drugs, alcohol, or  
863 both. The department shall also adopt rules relating to fair,  
864 economical, and accurate operations and procedures of a random  
865 inmate substance abuse testing program and a reasonable  
866 suspicion substance abuse testing program by urinalysis or other  
867 noninvasive procedure which enumerate penalties for positive  
868 test results, including but not limited to the forfeiture of  
869 both basic and rehabilitation credits ~~incentive gain-time~~, and  
870 which do not limit the number of times an inmate may be tested

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871 in any one fiscal or calendar year.

872 Section 26. Paragraph (b) of subsection (1) of section  
873 944.70, Florida Statutes, is amended to read:

874 944.70 Conditions for release from incarceration.—

875 (1)

876 (b) A person who is convicted of a crime committed on or  
877 after January 1, 1994, may be released from incarceration only:

878 1. Upon expiration of the person's sentence;

879 2. Upon expiration of the person's sentence as reduced by  
880 accumulated outstanding deed ~~meritorious~~ or rehabilitation  
881 credit ~~incentive gain time~~;

882 3. As directed by an executive order granting clemency;

883 4. Upon placement in a conditional release program pursuant  
884 to s. 947.1405 or a conditional medical release program pursuant  
885 to s. 947.149; or

886 5. Upon the granting of control release, including  
887 emergency control release, pursuant to s. 947.146.

888 Section 27. Paragraphs (i) and (j) of subsection (3) of  
889 section 944.801, Florida Statutes, are amended to read:

890 944.801 Education for state prisoners.—

891 (3) The responsibilities of the Correctional Education  
892 Program shall be to:

893 (i) Ensure that every inmate who has 2 years or more  
894 remaining to serve on his or her sentence at the time that he or  
895 she is received at an institution and who lacks basic and  
896 functional literacy skills as defined in s. 1004.02 attends not  
897 fewer than 150 hours of sequential instruction in a correctional  
898 adult basic education program. The basic and functional literacy  
899 level of an inmate shall be determined by the average composite

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900 test score obtained on a test approved for this purpose by the  
901 State Board of Education.

902 1. Upon completion of the 150 hours of instruction, the  
903 inmate shall be retested and, if a composite test score of  
904 functional literacy is not attained, the department is  
905 authorized to require the inmate to remain in the instructional  
906 program.

907 2. Highest priority of inmate participation shall be  
908 focused on youthful offenders and those inmates nearing release  
909 from the correctional system.

910 3. An inmate shall be required to attend the 150 hours of  
911 adult basic education instruction unless such inmate:

912 a. Is serving a life sentence or is under sentence of  
913 death.

914 b. Is specifically exempted for security or health reasons.

915 c. Is housed at a community correctional center, road  
916 prison, work camp, or vocational center.

917 d. Attains a functional literacy level after attendance in  
918 fewer than 150 hours of adult basic education instruction.

919 e. Is unable to enter such instruction because of  
920 insufficient facilities, staff, or classroom capacity.

921 4. The department ~~of Corrections~~ shall provide classes to  
922 accommodate those inmates assigned to correctional or public  
923 work programs after normal working hours. The department shall  
924 develop a plan to provide academic and vocational classes on a  
925 more frequent basis and at times that accommodate the increasing  
926 number of inmates with work assignments, to the extent that  
927 resources permit.

928 5. If an inmate attends and actively participates in the



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929 150 hours of instruction, the department ~~of Corrections~~ may  
930 grant a one-time award of up to 6 additional days of  
931 rehabilitation credit ~~incentive gain-time~~, which must be  
932 credited and applied as provided by law. Active participation  
933 means, at a minimum, that the inmate is attentive, responsive,  
934 cooperative, and completes assigned work.

935 (j) Recommend the award of additional rehabilitation credit  
936 ~~incentive gain-time~~ for inmates who receive a high school  
937 equivalency diploma or a vocational certificate.

938 Section 28. Subsection (15) of section 947.005, Florida  
939 Statutes, is amended to read:

940 947.005 Definitions.—As used in this chapter, unless the  
941 context clearly indicates otherwise:

942 (15) "Tentative release date" means the date projected for  
943 the prisoner's release from custody by virtue of gain-time and  
944 credits granted or forfeited pursuant to s. 944.275(3)(a).

945 Section 29. This act shall take effect July 1, 2023.