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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
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The Committee on Fiscal Policy (Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 19 - 404

and insert:

Section 1. Subsection (3) of section 944.35, Florida Statutes, is amended to read:

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

(3) (a) 1. Any employee of the department who, with malicious intent, commits a battery upon an inmate or an offender



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11 supervised by the department in the community, commits a  
12 misdemeanor of the first degree, punishable as provided in s.  
13 775.082 or s. 775.083.

14 2. Any employee of the department who, with malicious  
15 intent, commits a battery or inflicts cruel or inhuman treatment  
16 by neglect or otherwise, and in so doing causes great bodily  
17 harm, permanent disability, or permanent disfigurement to an  
18 inmate or an offender supervised by the department in the  
19 community, commits a felony of the third degree, punishable as  
20 provided in s. 775.082, s. 775.083, or s. 775.084.

21 (b)1. As used in this paragraph, the term:

22 a. "Female genitals" includes the labia minora, labia  
23 majora, clitoris, vulva, hymen, and vagina.

24 b. "Private correctional facility" has the same meaning as  
25 in s. 944.710.

26 ~~c.b.~~ "Sexual misconduct" means the oral, anal, or female  
27 genital penetration by, or union with, the sexual organ of  
28 another or the anal or female genital penetration of another by  
29 any other object, but does not include an act done for a bona  
30 fide medical purpose or an internal search conducted in the  
31 lawful performance of the employee's duty.

32 d. "Volunteer" means a person registered with the  
33 department or a private correctional facility who is engaged in  
34 specific voluntary service activities on an ongoing or continual  
35 basis.

36 2. Any employee of the department or a private correctional  
37 facility or any volunteer in, or any employee of a contractor or  
38 subcontractor of, the department or a private correctional  
39 facility as defined in s. 944.710 who engages in sexual



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40 misconduct with an inmate or an offender supervised by the  
41 department in the community, without committing the crime of  
42 sexual battery, commits a felony of the third degree, punishable  
43 as provided in s. 775.082, s. 775.083, or s. 775.084.

44 3. The consent of the inmate or offender supervised by the  
45 department in the community to any act of sexual misconduct may  
46 not be raised as a defense to a prosecution under this  
47 paragraph.

48 4. This paragraph does not apply to any employee,  
49 volunteer, or employee of a contractor or subcontractor of the  
50 department or any employee, volunteer, or employee of a  
51 contractor or subcontractor of a private correctional facility  
52 who is legally married to an inmate or an offender supervised by  
53 the department in the community, nor does it apply to any  
54 employee, volunteer, or employee of a contractor or  
55 subcontractor who has no knowledge, and would have no reason to  
56 believe, that the person with whom the employee, volunteer, or  
57 employee of a contractor or subcontractor has engaged in sexual  
58 misconduct is an inmate or an offender under community  
59 supervision of the department.

60 (c) Notwithstanding prosecution, any violation of the  
61 provisions of this subsection, as determined by the Public  
62 Employees Relations Commission, shall constitute sufficient  
63 cause under s. 110.227 for dismissal from employment with the  
64 department, and such person shall not again be employed in any  
65 capacity in connection with the correctional system.

66 (d) Each employee who witnesses, or has reasonable cause to  
67 suspect, that an inmate or an offender under the supervision of  
68 the department in the community has been unlawfully abused or is



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69 the subject of sexual misconduct pursuant to this subsection  
70 shall immediately prepare, date, and sign an independent report  
71 specifically describing the nature of the force used or the  
72 nature of the sexual misconduct, the location and time of the  
73 incident, and the persons involved. The report shall be  
74 delivered to the inspector general of the department with a copy  
75 to be delivered to the warden of the institution or the regional  
76 administrator. The inspector general shall immediately conduct  
77 an appropriate investigation, and, if probable cause is  
78 determined that a violation of this subsection has occurred, the  
79 respective state attorney in the circuit in which the incident  
80 occurred shall be notified.

81 Section 2. All powers, duties, functions, records,  
82 personnel, associated administrative support positions,  
83 property, administrative authority, and administrative rules  
84 relating to private correctional facilities are transferred by a  
85 type two transfer, as defined in s. 20.06(2), Florida Statutes,  
86 from the Department of Management Services to the Department of  
87 Corrections. The Department of Management Services must ensure  
88 any unexpended funds or trust funds are transferred. Any binding  
89 contract or interagency agreement concerning private  
90 correctional facilities entered into and between the Department  
91 of Management Services and any other agency, entity, or person  
92 continues as a binding contract or an interagency agreement with  
93 the Department of Corrections for the remainder of the term of  
94 the contract or agreement, except for any contract or agreement  
95 entered into as a result of state appropriations from the  
96 federal Coronavirus State Fiscal Recovery Fund (Public Law 117-  
97 2) for fixed capital outlay projects. The Department of



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98 Corrections assumes all rights and responsibilities of the  
99 Department of Management Services under such contract or  
100 interagency agreement as if it were the original party to the  
101 agreement, except as it pertains to the Department of Management  
102 Services' rights with regard to action against any state  
103 contractor pursuant to law, which rights remain with the  
104 Department of Management Services. Notwithstanding the above,  
105 for any client agency agreements concerning private correctional  
106 facilities, the rights and responsibilities of the client  
107 agency, and only those rights and responsibilities, are  
108 transferred to the Department of Corrections.

109 (2) In no way shall the transfer under this act affect any  
110 existing agreements, bonds, certificates of participation, or  
111 other instruments of indebtedness entered into by the Department  
112 of Management Services. All undertakings of the Department of  
113 Management Services in connection with the issuance of  
114 certificates of participation and the obligations to make rent  
115 payments thereunder to the Florida Correctional Finance  
116 Corporation are validated and continue to be valid and binding  
117 on the Department of Corrections in accordance with their  
118 respective terms, conditions, and covenants.

119 Section 3. Subsection (17) of section 287.042, Florida  
120 Statutes, is amended to read:

121 287.042 Powers, duties, and functions.—The department shall  
122 have the following powers, duties, and functions:

123 ~~(17) (a) To enter into contracts pursuant to chapter 957 for~~  
124 ~~the designing, financing, acquiring, leasing, constructing, or~~  
125 ~~operating of private correctional facilities. The department~~  
126 ~~shall enter into a contract or contracts with one contractor per~~



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127 ~~facility for the designing, acquiring, financing, leasing,~~  
128 ~~constructing, and operating of that facility or may, if~~  
129 ~~specifically authorized by the Legislature, separately contract~~  
130 ~~for any such services.~~

131 ~~(b) To manage and enforce compliance with existing or~~  
132 ~~future contracts entered into pursuant to chapter 957.~~

133  
134 ~~The department may not delegate the responsibilities conferred~~  
135 ~~by this subsection.~~

136 Section 4. Section 394.9151, Florida Statutes, is amended  
137 to read:

138 394.9151 Contract authority.—The Department of Children and  
139 Families may contract with a private entity or state agency for  
140 use of and operation of facilities to comply with the  
141 requirements of this act. The Department of Children and  
142 Families may also contract with the Department of Corrections  
143 ~~Management Services~~ to issue a request for proposals and monitor  
144 contract compliance for these services.

145 Section 5. Section 943.13, Florida Statutes, is amended to  
146 read:

147 943.13 Officers' minimum qualifications for employment or  
148 appointment.—On or after October 1, 1984, any person employed or  
149 appointed as a full-time, part-time, or auxiliary law  
150 enforcement officer or correctional officer; on or after October  
151 1, 1986, any person employed as a full-time, part-time, or  
152 auxiliary correctional probation officer; and on or after  
153 October 1, 1986, any person employed as a full-time, part-time,  
154 or auxiliary correctional officer by a private entity under  
155 contract to the Department of Corrections or, to a county



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156 ~~commission, or to the Department of Management Services~~ shall:

157 (1) Be at least 19 years of age, except that any person  
158 employed as a full-time, a part-time, or an auxiliary  
159 correctional officer must be at least 18 years of age.

160 (2) Be a citizen of the United States, notwithstanding any  
161 law of the state to the contrary.

162 (3) Be a high school graduate or its "equivalent" as the  
163 commission has defined the term by rule.

164 (4) Not have been convicted of any felony or of a  
165 misdemeanor involving perjury or a false statement, or have  
166 received a dishonorable discharge from any of the Armed Forces  
167 of the United States. Any person who, after July 1, 1981, pleads  
168 guilty or nolo contendere to or is found guilty of any felony or  
169 of a misdemeanor involving perjury or a false statement is not  
170 eligible for employment or appointment as an officer,  
171 notwithstanding suspension of sentence or withholding of  
172 adjudication. Notwithstanding this subsection, any person who  
173 has pled nolo contendere to a misdemeanor involving a false  
174 statement, prior to December 1, 1985, and has had such record  
175 sealed or expunged shall not be deemed ineligible for employment  
176 or appointment as an officer.

177 (5) Have documentation of his or her processed fingerprints  
178 on file with the employing agency or, if a private correctional  
179 officer, have documentation of his or her processed fingerprints  
180 on file with the Department of Corrections or the Criminal  
181 Justice Standards and Training Commission. The department shall  
182 retain and enter into the statewide automated biometric  
183 identification system authorized by s. 943.05 all fingerprints  
184 submitted to the department as required by this section.



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185 Thereafter, the fingerprints shall be available for all purposes  
186 and uses authorized for arrest fingerprints entered in the  
187 statewide automated biometric identification system pursuant to  
188 s. 943.051. The department shall search all arrest fingerprints  
189 received pursuant to s. 943.051 against the fingerprints  
190 retained in the statewide automated biometric identification  
191 system pursuant to this section and report to the employing  
192 agency any arrest records that are identified with the retained  
193 employee's fingerprints. These fingerprints must be forwarded to  
194 the department for processing and retention.

195 (6) Have passed a physical examination by a licensed  
196 physician, physician assistant, or licensed advanced practice  
197 registered nurse, based on specifications established by the  
198 commission. In order to be eligible for the presumption set  
199 forth in s. 112.18 while employed with an employing agency, a  
200 law enforcement officer, correctional officer, or correctional  
201 probation officer must have successfully passed the physical  
202 examination required by this subsection upon entering into  
203 service as a law enforcement officer, correctional officer, or  
204 correctional probation officer with the employing agency, which  
205 examination must have failed to reveal any evidence of  
206 tuberculosis, heart disease, or hypertension. A law enforcement  
207 officer, correctional officer, or correctional probation officer  
208 may not use a physical examination from a former employing  
209 agency for purposes of claiming the presumption set forth in s.  
210 112.18 against the current employing agency. The employing  
211 agency must maintain records of the physical examination for at  
212 least 5 years after the employee's separation from the employing  
213 agency. If the employing agency fails to maintain the records of





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214 the physical examination for the 5-year period after the  
215 employee's separation, it is presumed that the employee has met  
216 the requirements of this subsection.

217 (7) Have a good moral character as determined by a  
218 background investigation under procedures established by the  
219 commission.

220 (8) Execute and submit to the employing agency or, if a  
221 private correctional officer, submit to the appropriate  
222 governmental entity an affidavit-of-applicant form, adopted by  
223 the commission, attesting to his or her compliance with  
224 subsections (1)-(7). The affidavit shall require the applicant  
225 to disclose any pending investigation by a local, state, or  
226 federal agency or entity for criminal, civil, or administrative  
227 wrongdoing and whether the applicant separated or resigned from  
228 previous criminal justice employment while he or she was under  
229 investigation. The affidavit shall be executed under oath and  
230 constitutes an official statement within the purview of s.  
231 837.06. The affidavit shall include conspicuous language that  
232 the intentional false execution of the affidavit constitutes a  
233 misdemeanor of the second degree. The affidavit shall be  
234 retained by the employing agency.

235 (9) Complete a commission-approved basic recruit training  
236 program for the applicable criminal justice discipline, unless  
237 exempt under this subsection. An applicant who has:

238 (a) Completed a comparable basic recruit training program  
239 for the applicable criminal justice discipline in another state  
240 or for the Federal Government and served as a full-time sworn  
241 officer in another state or for the Federal Government for at  
242 least 1 year, provided there is no more than an 8-year break in



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243 employment, as measured from the separation date of the most  
244 recent qualifying employment to the time a complete application  
245 for an exemption under this subsection is submitted; or

246 (b) Served in the special operations forces for a minimum  
247 of 5 years, provided there is no more than a 4-year break from  
248 the applicant's special operations forces experience, as  
249 measured from the separation date from the special operations  
250 forces to the time a complete application for an exemption under  
251 this subsection is submitted,

252

253 is exempt in accordance with s. 943.131(2) from completing the  
254 commission-approved basic recruit training program.

255 (10) Achieve an acceptable score on the officer  
256 certification examination for the applicable criminal justice  
257 discipline.

258 (11) Comply with the continuing training or education  
259 requirements of s. 943.135.

260 Section 6. Subsection (4) of section 944.02, Florida  
261 Statutes, is amended, and subsection (3) of that section is  
262 republished, to read:

263 944.02 Definitions.—The following words and phrases used in  
264 this chapter shall, unless the context clearly indicates  
265 otherwise, have the following meanings:

266 (3) "Department" means the Department of Corrections.

267 (4) "Elderly offender" means a prisoner age 50 or older in  
268 a state correctional institution or facility operated by the  
269 department of Corrections or the Department of Management  
270 Services.

271 Section 7. Paragraph (b) of subsection (2) of section



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272 944.115, Florida Statutes, is amended, and paragraph (a) of that  
273 subsection is republished, to read:

274 944.115 Smoking prohibited inside state correctional  
275 facilities.—

276 (2) As used in this section, the term:

277 (a) "Department" means the Department of Corrections.

278 (b) "Employee" means an employee of the department or a  
279 private vendor in a contractual relationship with ~~either the~~  
280 ~~department of Corrections or the Department of Management~~  
281 ~~Services~~, and includes persons such as contractors, volunteers,  
282 or law enforcement officers who are within a state correctional  
283 facility to perform a professional service.

284 Section 8. Subsection (1) of section 944.72, Florida  
285 Statutes, is amended to read:

286 944.72 Privately Operated Institutions Inmate Welfare Trust  
287 Fund.—

288 (1) There is hereby created in the Department of  
289 Corrections the Privately Operated Institutions Inmate Welfare  
290 Trust Fund. The purpose of the trust fund shall be the benefit  
291 and welfare of inmates incarcerated in private correctional  
292 facilities under contract with the department pursuant to this  
293 chapter or ~~the Department of Management Services pursuant to~~  
294 chapter 957. Moneys shall be deposited in the trust fund and  
295 expenditures made from the trust fund as provided in s. 945.215.

296 Section 9. Section 944.8041, Florida Statutes, is amended  
297 to read:

298 944.8041 Elderly offenders; annual review.—For the purpose  
299 of providing information to the Legislature on elderly offenders  
300 within the correctional system, the department and the



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301 Correctional Medical Authority shall each submit annually a  
302 report on the status and treatment of elderly offenders in the  
303 state-administered and private state correctional systems and  
304 the department's geriatric facilities and dorms. In order to  
305 adequately prepare the reports, the department ~~and the~~  
306 ~~Department of Management Services~~ shall grant access to the  
307 Correctional Medical Authority that includes access to the  
308 facilities, offenders, and any information the agencies require  
309 to complete their reports. The review shall also include an  
310 examination of promising geriatric policies, practices, and  
311 programs currently implemented in other correctional systems  
312 within the United States. The reports, with specific findings  
313 and recommendations for implementation, shall be submitted to  
314 the President of the Senate and the Speaker of the House of  
315 Representatives on or before December 31 of each year.

316 Section 10. Subsection (3) of section 945.215, Florida  
317 Statutes, is amended to read:

318 945.215 Inmate welfare and employee benefit trust funds.—

319 (3) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST  
320 FUND; PRIVATE CORRECTIONAL FACILITIES.—

321 (a) For purposes of this subsection, privately operated  
322 institutions or private correctional facilities are those  
323 correctional facilities under contract with the department  
324 pursuant to chapter 944 or ~~the Department of Management Services~~  
325 ~~pursuant to~~ chapter 957.

326 (b)1. The net proceeds derived from inmate canteens,  
327 vending machines used primarily by inmates, telephone  
328 commissions, and similar sources at private correctional  
329 facilities shall be deposited in the Privately Operated



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330 Institutions Inmate Welfare Trust Fund.

331 2. Funds in the Privately Operated Institutions Inmate  
332 Welfare Trust Fund shall be expended only pursuant to  
333 legislative appropriation.

334 (c) The department ~~of Management Services~~ shall annually  
335 compile a report that documents Privately Operated Institutions  
336 Inmate Welfare Trust Fund receipts and expenditures at each  
337 private correctional facility. This report must specifically  
338 identify receipt sources and expenditures. The department ~~of~~  
339 ~~Management Services~~ shall compile this report for the prior  
340 fiscal year and shall submit the report by September 1 of each  
341 year to the chairs of the appropriate substantive and fiscal  
342 committees of the Senate and House of Representatives and to the  
343 Executive Office of the Governor.

344 Section 11. Subsection (3) and paragraph (a) of subsection  
345 (6) of section 946.504, Florida Statutes, are amended to read:

346 946.504 Organization of corporation to operate correctional  
347 work programs; lease of facilities.—

348 (3) The corporation shall negotiate with the department ~~of~~  
349 ~~Management Services~~ to reach and enter into an agreement for the  
350 lease of each correctional work program proposed by the  
351 corporation. The facilities to be leased and the amount of  
352 rental for such facilities shall be agreed upon by the  
353 department ~~of Management Services~~ and the corporation, ~~with~~  
354 ~~consultation with the department~~. The length of such lease shall  
355 be mutually agreed upon between ~~among~~ the department, ~~the~~  
356 ~~Department of Management Services~~, and the corporation; however,  
357 the initial lease may not exceed 7 years. The department shall  
358 continue to manage and operate the various correctional work



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359 programs until the lease between the department and the  
360 corporation is effective.

361 (6) (a) Upon the effective date of each lease of each  
362 correctional work program, the department shall cause to be  
363 remitted to the corporation all funds appropriated for,  
364 associated with, or budgeted for the operation of that  
365 correctional work program, as agreed upon between ~~among~~ the  
366 department, ~~the Department of Management Services,~~ and the  
367 corporation.

368 Section 12. Section 957.04, Florida Statutes, is amended to  
369 read:

370 957.04 Contract requirements.—

371 (1) A contract entered into under this chapter for the  
372 operation of private correctional facilities shall maximize the  
373 cost savings of such facilities and shall:

374 (a) Be negotiated with the firm found most qualified.  
375 However, a contract for private correctional services may not be  
376 entered into by the department ~~of Management Services~~ unless the  
377 department ~~of Management Services~~ determines that the contractor  
378 has demonstrated that it has:

379 1. The qualifications, experience, and management personnel  
380 necessary to carry out the terms of the contract.

381 2. The ability to expedite the siting, design, and  
382 construction of correctional facilities.

383 3. The ability to comply with applicable laws, court  
384 orders, and national correctional standards.

385 (b) Indemnify the state and the department, including their  
386 officials and agents, against any and all liability, including,  
387 but not limited to, civil rights liability. Proof of



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388 satisfactory insurance is required in an amount to be determined  
389 by the department ~~of Management Services~~.

390 (c) Require that the contractor seek, obtain, and maintain  
391 accreditation by the American Correctional Association for the  
392 facility under that contract. Compliance with amendments to the  
393 accreditation standards of the association is required upon the  
394 approval of such amendments by the department ~~commission~~.

395 (d) Require that the proposed facilities and the management  
396 plans for the inmates meet applicable American Correctional  
397 Association standards and the requirements of all applicable  
398 court orders and state law.

399 (e) Establish operations standards for correctional  
400 facilities subject to the contract. However, if the department  
401 and the contractor disagree with an operations standard, the  
402 contractor may propose to waive any rule, policy, or procedure  
403 of the department related to the operations standards of  
404 correctional facilities which is inconsistent with the mission  
405 of the contractor to establish cost-effective, privately  
406 operated correctional facilities. The department ~~of Management~~  
407 ~~Services~~ shall be responsible for considering all proposals from  
408 the contractor to waive any rule, policy, or procedure and shall  
409 render a final decision granting or denying such request.

410 (f) Require the contractor to be responsible for a range of  
411 dental, medical, and psychological services; diet; education;  
412 and work programs at least equal to those provided by the  
413 department in comparable facilities. The work and education  
414 programs must be designed to reduce recidivism, and include  
415 opportunities to participate in such work programs as authorized  
416 pursuant to s. 946.523.



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417 (g) Require the selection and appointment of a full-time  
418 contract monitor. The contract monitor shall be appointed and  
419 supervised by the department ~~of Management Services~~. The  
420 contractor is required to reimburse the department ~~of Management~~  
421 ~~Services~~ for the salary and expenses of the contract monitor. It  
422 is the obligation of the contractor to provide suitable office  
423 space for the contract monitor at the correctional facility. The  
424 contract monitor shall have unlimited access to the correctional  
425 facility.

426 (h) Be for a period of 3 years and may be renewed for  
427 successive 2-year periods thereafter. However, the state is not  
428 obligated for any payments to the contractor beyond current  
429 annual appropriations.

430 (2) Each contract entered into for the design and  
431 construction of a private correctional facility or juvenile  
432 commitment facility must include:

433 (a) Notwithstanding any provision of chapter 255 to the  
434 contrary, a specific provision authorizing the use of tax-exempt  
435 financing through the issuance of tax-exempt bonds, certificates  
436 of participation, lease-purchase agreements, or other tax-exempt  
437 financing methods. Pursuant to s. 255.25, approval is hereby  
438 provided for the lease-purchase of up to two private  
439 correctional facilities and any other facility authorized by the  
440 General Appropriations Act.

441 (b) A specific provision requiring the design and  
442 construction of the proposed facilities to meet the applicable  
443 standards of the American Correctional Association and the  
444 requirements of all applicable court orders and state law.

445 (c) A specific provision requiring the contractor, and not





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446 the department ~~of Management Services~~, to obtain the financing  
447 required to design and construct the private correctional  
448 facility or juvenile commitment facility built under this  
449 chapter.

450 (d) A specific provision stating that the state is not  
451 obligated for any payments that exceed the amount of the current  
452 annual appropriation.

453 (3) (a) Each contract for the designing, financing,  
454 acquiring, leasing, constructing, and operating of a private  
455 correctional facility shall be subject to ss. 255.2502 and  
456 255.2503.

457 (b) Each contract for the designing, financing, acquiring,  
458 leasing, and constructing of a private juvenile commitment  
459 facility shall be subject to ss. 255.2502 and 255.2503.

460 (4) A contract entered into under this chapter does not  
461 accord third-party beneficiary status to any inmate or juvenile  
462 offender or to any member of the general public.

463 (5) Each contract entered into by the department ~~of~~  
464 ~~Management Services~~ must include substantial minority  
465 participation unless demonstrated by evidence, after a good  
466 faith effort, as impractical and must also include any other  
467 requirements the department ~~of Management Services~~ considers  
468 necessary and appropriate for carrying out the purposes of this  
469 chapter.

470 (6) Notwithstanding s. 253.025(9), the Board of Trustees of  
471 the Internal Improvement Trust Fund need not approve a lease-  
472 purchase agreement negotiated by the department ~~of Management~~  
473 ~~Services~~ if the department ~~of Management Services~~ finds that  
474 there is a need to expedite the lease-purchase.



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475 (7) (a) Notwithstanding s. 253.025 or s. 287.057, whenever  
476 the department ~~of Management Services~~ finds it to be in the best  
477 interest of timely site acquisition, it may contract without the  
478 need for competitive selection with one or more appraisers whose  
479 names are contained on the list of approved appraisers  
480 maintained by the Division of State Lands of the Department of  
481 Environmental Protection in accordance with s. 253.025(8). In  
482 those instances when the department ~~of Management Services~~  
483 directly contracts for appraisal services, it shall also  
484 contract with an approved appraiser who is not employed by the  
485 same appraisal firm for review services.

486 (b) Notwithstanding s. 253.025(8), the department ~~of~~  
487 ~~Management Services~~ may negotiate and enter into lease-purchase  
488 agreements before an appraisal is obtained. Any such agreement  
489 must state that the final purchase price cannot exceed the  
490 maximum value allowed by law.

491 Section 13. Subsection (2) of section 957.06, Florida  
492 Statutes, is amended to read:

493 957.06 Powers and duties not delegable to contractor.—A  
494 contract entered into under this chapter does not authorize,  
495 allow, or imply a delegation of authority to the contractor to:

496 (2) Choose the facility to which an inmate is initially  
497 assigned or subsequently transferred. The contractor may  
498 request, in writing, that an inmate be transferred to a facility  
499 operated by the department. The ~~Department of Management~~  
500 ~~Services, the contractor,~~ and the department shall develop and  
501 implement a cooperative agreement for transferring inmates  
502 between a correctional facility operated by the department and a  
503 private correctional facility. The department, ~~the Department of~~



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504 ~~Management Services~~, and the contractor must comply with the  
505 cooperative agreement.

506 Section 14. Section 957.07, Florida Statutes, is amended to  
507 read:

508 957.07 Cost-saving requirements.—

509 (1) The department ~~of Management Services~~ may not enter  
510 into a contract or series of contracts unless the department  
511 determines that the contract or series of contracts in total for  
512 the facility will result in a cost savings to the state of at  
513 least 7 percent over the public provision of a similar facility.  
514 Such cost savings as determined and certified by the Auditor  
515 General ~~Department of Management Services~~ must be based upon the  
516 actual costs associated with the construction and operation of  
517 similar facilities or services as determined by the department  
518 ~~of Corrections and certified by the Auditor General~~. The  
519 department ~~of Corrections~~ shall calculate all of the cost  
520 components that determine the inmate per diem in correctional  
521 facilities of a substantially similar size, type, and location  
522 that are operated by the department ~~of Corrections~~, including  
523 administrative costs associated with central administration.  
524 Services that are provided to the department ~~of Corrections~~ by  
525 other governmental agencies at no direct cost to the department  
526 shall be assigned an equivalent cost and included in the per  
527 diem.

528 (2) Reasonable projections of payments of any kind to the  
529 state or any political subdivision thereof for which the private  
530 entity would be liable because of its status as private rather  
531 than a public entity, including, but not limited to, corporate  
532 income and sales tax payments, shall be included as cost savings



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533 in all such determinations. In addition, the costs associated  
534 with the appointment and activities of each contract monitor  
535 shall be included in such determination.

536 (3) In counties where the department ~~of Corrections~~ pays  
537 its employees a competitive area differential, the cost for the  
538 public provision of a similar correctional facility may include  
539 the competitive area differential paid by the department.

540 (4) The department ~~of Corrections~~ shall provide a report  
541 detailing the state cost to design, finance, acquire, lease,  
542 construct, and operate a facility similar to the private  
543 correctional facility on a per diem basis. This report shall be  
544 provided to the Auditor General in sufficient time that it may  
545 be certified ~~to the Department of Management Services~~ to be  
546 included in the request for proposals.

547 (5) (a) At the request of the Speaker of the House of  
548 Representatives or the President of the Senate, the Prison Per-  
549 Diem Workgroup shall develop consensus per diem rates for use by  
550 the Legislature. The Office of Program Policy Analysis and  
551 Government Accountability and the staffs of the appropriations  
552 committees of both the Senate and the House of Representatives  
553 are the principals of the workgroup. The workgroup may consult  
554 with other experts to assist in the development of the consensus  
555 per diem rates. All meetings of the workgroup shall be open to  
556 the public as provided in chapter 286.

557 (b) When developing the consensus per diem rates, the  
558 workgroup must:

559 1. Use data provided by the department ~~of Corrections~~ from  
560 the most recent fiscal year to determine per diem costs for the  
561 following activities:



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562 a. Custody and control;  
563 b. Health services;  
564 c. Substance abuse programs; and  
565 d. Educational programs;  
566 2. Include the cost of departmental, regional,  
567 institutional, and program administration and any other fixed  
568 costs of the department;  
569 3. Calculate average per diem rates for the following  
570 offender populations: adult male, youthful offender male, and  
571 female; and  
572 4. Make per diem adjustments, as appropriate, to account  
573 for variations in size and location of correctional facilities.  
574 (c) The consensus per diem rates determined by the  
575 workgroup may be used to assist the Legislature in determining  
576 the level of funding provided to privately operated prisons to  
577 meet the 7-percent savings required of private prisons by this  
578 chapter.  
579 (d) If a private vendor chooses not to renew the contract  
580 at the appropriated level, the department ~~of Management Services~~  
581 shall terminate the contract as provided in s. 957.14.  
582 Section 15. Section 957.08, Florida Statutes, is amended to  
583 read:  
584 957.08 Capacity requirements.—The department ~~of Corrections~~  
585 shall transfer and assign prisoners to each private correctional  
586 facility opened pursuant to this chapter in an amount not less  
587 than 90 percent or more than 100 percent of the capacity of the  
588 facility pursuant to the contract ~~with the Department of~~  
589 ~~Management Services~~. The prisoners transferred by the department  
590 ~~of Corrections~~ shall represent a cross-section of the general



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591 inmate population, based on the grade of custody or the offense  
592 of conviction, at the most comparable facility operated by the  
593 department.

594 Section 16. Section 957.12, Florida Statutes, is amended to  
595 read:

596 957.12 Prohibition on contact.—A bidder or potential bidder  
597 is not permitted to have any contact with any member or employee  
598 of or consultant to the department ~~commission~~ regarding a  
599 request for proposal, a proposal, or the evaluation or selection  
600 process from the time a request for proposals for a private  
601 correctional facility is issued until the time a notification of  
602 intent to award is announced, except if such contact is in  
603 writing or in a meeting for which notice was provided in the  
604 Florida Administrative Register.

605 Section 17. Section 957.14, Florida Statutes, is amended to  
606 read:

607 957.14 Contract termination and control of a correctional  
608 facility by the department.—A detailed plan shall be provided by  
609 a private vendor under which the department shall assume  
610 temporary control of a private correctional facility upon  
611 termination of the contract. The department ~~of Management~~  
612 ~~Services~~ may terminate the contract with cause after written  
613 notice of material deficiencies and after 60 workdays in order  
614 to correct the material deficiencies. If any event occurs that  
615 involves the noncompliance with or violation of contract terms  
616 and that presents a serious threat to the safety, health, or  
617 security of the inmates, employees, or the public, the  
618 department may temporarily assume control of the private  
619 correctional facility, ~~with the approval of the department of~~



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620 ~~Management Services~~. A plan shall also be provided by a private  
621 vendor for the purchase and temporary assumption of operations  
622 of a correctional facility by the department in the event of  
623 bankruptcy or the financial insolvency of the private vendor.  
624 The private vendor shall provide an emergency plan to address  
625 inmate disturbances, employee work stoppages, strikes, or other  
626 serious events in accordance with standards of the American  
627 Correctional Association.

628 Section 18. Section 957.15, Florida Statutes, is amended to  
629 read:

630 957.15 Funding of contracts for operation, maintenance, and  
631 lease-purchase of private correctional facilities.—The request  
632 for appropriation of funds to make payments pursuant to  
633 contracts entered into by the department ~~of Management Services~~  
634 for the operation, maintenance, and lease-purchase of the  
635 private correctional facilities authorized by this chapter shall  
636 be included ~~made by the Department of Management Services in a~~  
637 ~~request to the department. The department shall include such~~  
638 ~~request~~ in its budget request to the Legislature as a separately  
639 identified item ~~and shall forward the request of the Department~~  
640 ~~of Management Services without change~~. After an appropriation  
641 has been made by the Legislature to the department for the  
642 private correctional facilities, the department shall have no  
643 authority over such funds other than to pay from such  
644 appropriation to the appropriate private vendor such amounts as  
645 are certified for payment by the department ~~of Management~~  
646 ~~Services~~.

647 Section 19. Section 957.16, Florida Statutes, is amended to  
648 read:



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649           957.16 Expanding capacity.—The department ~~of Management~~  
650 ~~Services~~ is authorized to modify and execute agreements with  
651 contractors to expand up to the total capacity of contracted  
652 correctional facilities. Total capacity means the design  
653 capacity of all contracted correctional facilities increased by  
654 one-half as described under s. 944.023(1)(b). Any additional  
655 beds authorized under this section must comply with the cost-  
656 saving requirements set forth in s. 957.07. Any additional beds  
657 authorized as a result of expanded capacity under this section  
658 are contingent upon specified appropriations.

659           Section 20. For the purpose of incorporating the amendment  
660 made by this act to section 944.115, Florida Statutes, in a  
661 reference thereto, paragraph (b) of subsection (2) of section  
662 944.47, Florida Statutes, is reenacted to read:

663           944.47 Introduction, removal, or possession of contraband;  
664 penalty.—

665           (2)

666           (b) A violation of this section by an employee, as defined  
667 in s. 944.115(2)(b), who uses or attempts to use the powers,  
668 rights, privileges, duties, or position of his or her employment  
669 in the commission of the violation is ranked one level above the  
670 ranking specified in s. 921.0022 or s. 921.0023 for the offense  
671 committed.

672           Section 21. This act shall take effect October 1, 2023.

673  
674 ===== T I T L E   A M E N D M E N T =====

675 And the title is amended as follows:

676           Delete lines 12 - 15

677 and insert:





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678 providing construction; amending ss. 287.042,  
679 394.9151, 943.13, 944.02, 944.115, 944.72, 944.8041,  
680 945.215, 946.504, 957.04, 957.06, 957.07, 957.08,  
681 957.12, 957.14, 957.15, and 957.16, F.S.; conforming  
682 provisions to changes made by the act; reenacting s.  
683 944.47(2)(b), F.S., relating to the penalty for the  
684 introduction, removal, or possession of contraband, to  
685 incorporate the amendment made to s. 944.115, F.S., in  
686 a reference thereto; providing an effective date.