

By Senator Martin

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1                   A bill to be entitled  
2       An act relating to Department of Corrections; amending  
3       s. 944.31, F.S.; providing additional authority for  
4       law enforcement officers of the office of the  
5       inspector general concerning department and private  
6       correctional facilities; amending s. 957.04, F.S.;  
7       providing that correctional privatization contracts  
8       are not exempt from specified state contracting  
9       provisions unless otherwise specified; providing  
10      construction; amending s. 957.07, F.S.; revising  
11      terminology; removing provisions concerning  
12      development of consensus per diem rates by the Prison  
13      Per-Diem Workgroup; amending s. 957.12, F.S.; revising  
14      provisions concerning contact with the department by  
15      specified persons; amending s. 957.15, F.S.; removing  
16      a provision concerning department control over certain  
17      funds appropriated for private correctional  
18      facilities; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22       Section 1. Section 944.31, Florida Statutes, is amended to  
23       read:

24       944.31 Inspector general; inspectors; power and duties.—  
25       (1) The inspector general shall be responsible for prison  
26       inspection and investigation, internal affairs investigations,  
27       and management reviews. The office of the inspector general  
28       shall be charged with the duty of inspecting the penal and  
29       correctional systems of the state.

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30           (2) The office of the inspector general shall inspect each  
31 correctional institution or any place in which state prisoners  
32 are housed, worked, or kept within the state, with reference to  
33 its physical conditions, cleanliness, sanitation, safety, and  
34 comfort; the quality and supply of all bedding; the quality,  
35 quantity, and diversity of food served and the manner in which  
36 it is served; the number and condition of the prisoners confined  
37 therein; and the general conditions of each institution.

38           (3) The office of inspector general shall see that all the  
39 rules and regulations issued by the department are strictly  
40 observed and followed by all persons connected with the  
41 correctional systems of the state. The office of the inspector  
42 general shall coordinate and supervise the work of inspectors  
43 throughout the state.

44           (4) The inspector general and inspectors may enter any  
45 place where prisoners in this state are kept and shall be  
46 immediately admitted to such place as they desire and may  
47 consult and confer with any prisoner privately and without  
48 molestation.

49           (5) (a) The inspector general and inspectors shall be  
50 responsible for criminal and administrative investigation of  
51 matters relating to the Department of Corrections.

52           (b) The secretary may designate persons within the office  
53 of the inspector general as law enforcement officers to conduct  
54 any criminal investigation that occurs on property owned or  
55 leased by the department or involves matters over which the  
56 department has jurisdiction. All criminal investigations,  
57 involving matters over which the department has jurisdiction at  
58 private correctional facilities, as defined in s. 944.710, may

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59 be conducted by the law enforcement officers of the office of  
60 the inspector general.

61 (c) A person designated as a law enforcement officer must  
62 be certified pursuant to s. 943.1395 and must have a minimum of  
63 3 years' experience as an inspector in the inspector general's  
64 office or as a law enforcement officer.

65 (d) The department shall maintain a memorandum of  
66 understanding with the Department of Law Enforcement for the  
67 notification and investigation of mutually agreed-upon predicate  
68 events that shall include, but are not limited to, suspicious  
69 deaths and organized criminal activity.

70 (e) During investigations, the inspector general and  
71 inspectors may consult and confer with any prisoner or staff  
72 member privately and without molestation and persons designated  
73 as law enforcement officers under this section shall have the  
74 authority to arrest, with or without a warrant, any prisoner of  
75 or visitor to a state correctional institution for a violation  
76 of the criminal laws of the state. Law enforcement officers  
77 under this section shall have the authority to arrest, with or  
78 without a warrant, any prisoner of or visitor to any state  
79 correctional institution, as defined in s. 944.02, including all  
80 private correctional facilities, for any violation of the  
81 criminal laws of the state involving matters over which the  
82 department has jurisdiction, ~~involving an offense classified as~~  
83 ~~a felony that occurs on property owned or leased by the~~  
84 ~~department~~ and may arrest offenders who have escaped or  
85 absconded from custody.

86 (f) Persons designated as law enforcement officers have the  
87 authority to arrest with or without a warrant a staff member of

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88 the department, including any contract employee, subcontractor,  
89 or volunteer, for a violation of the criminal laws of the state  
90 that occurs involving an offense classified as a felony under  
91 this chapter or chapter 893 on property owned or leased by the  
92 department, or any private correctional facility staff member,  
93 contract employee, subcontractor, or volunteer, for a violation  
94 of the criminal laws of the state involving matters over which  
95 the department has jurisdiction at any private correctional  
96 facility. A person designated as a law enforcement officer under  
97 this section may make arrests of persons against whom arrest  
98 warrants have been issued, including arrests of offenders who  
99 have escaped or absconded from custody. The arrested person  
100 shall be surrendered without delay to the sheriff of the county  
101 in which the arrest is made, with a formal complaint  
102 subsequently made against her or him in accordance with law.

103 Section 2. Present paragraphs (a) through (h) of subsection  
104 (1) of section 957.04, Florida Statutes, are redesignated as  
105 paragraphs (b) through (i), respectively, a new paragraph (a) is  
106 added to that subsection, and present paragraphs (a) and (e) of  
107 that subsection are amended, to read:

108 957.04 Contract requirements.—

109 (1) A contract entered into under this chapter for the  
110 operation of private correctional facilities shall maximize the  
111 cost savings of such facilities and ~~shall~~:

112 (a) Unless otherwise specified herein, contracts entered  
113 into under this chapter are not exempt from chapter 287,  
114 including the competitive solicitation requirements thereof.  
115 However, to the extent of a direct conflict between this chapter  
116 and chapter 287, the provisions of this chapter shall control.

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117 Contracts entered into under this chapter for the operation of  
118 private correctional facilities are not considered to be an  
119 outsource as defined in s. 287.012. The specific outsourcing  
120 requirements in s. 287.0571 are not required under this section.

121 (b) ~~(a)~~ Be executed ~~negotiated~~ with the contractor ~~firm~~  
122 found most qualified. However, a contract for private  
123 correctional services may not be entered into by the department  
124 unless the department determines that the contractor has  
125 demonstrated that it has:

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

128 2. The ability to expedite the siting, design, and  
129 construction of correctional facilities.

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

132 (f) ~~(e)~~ Establish operations standards for correctional  
133 facilities subject to the contract. However, if the department  
134 and the contractor disagree with an operations standard, the  
135 contractor may propose to waive any rule, policy, or procedure  
136 of the department related to the operations standards of  
137 correctional facilities which is inconsistent with the mission  
138 of the contractor to establish cost-effective, privately  
139 operated correctional facilities. The department shall be  
140 responsible for considering all requests ~~proposals~~ from the  
141 contractor to waive any rule, policy, or procedure and shall  
142 render a final decision granting or denying such request.

143 Section 3. Subsections (4) and (5) of section 957.07,  
144 Florida Statutes, are amended to read:

145 957.07 Cost-saving requirements.-

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146 (4) The department shall provide a report detailing the  
147 state cost to design, finance, acquire, lease, construct, and  
148 operate a facility similar to the private correctional facility  
149 on a per diem basis. This report shall be provided to the  
150 Auditor General in sufficient time that it may be certified to  
151 be included in the competitive solicitation ~~request for~~  
152 ~~proposals.~~

153 ~~(5) (a) At the request of the Speaker of the House of~~  
154 ~~Representatives or the President of the Senate, the Prison Per-~~  
155 ~~Diem Workgroup shall develop consensus per diem rates for use by~~  
156 ~~the Legislature. The Office of Program Policy Analysis and~~  
157 ~~Government Accountability and the staffs of the appropriations~~  
158 ~~committees of both the Senate and the House of Representatives~~  
159 ~~are the principals of the workgroup. The workgroup may consult~~  
160 ~~with other experts to assist in the development of the consensus~~  
161 ~~per diem rates. All meetings of the workgroup shall be open to~~  
162 ~~the public as provided in chapter 286.~~

163 ~~(b) When developing the consensus per diem rates, the~~  
164 ~~workgroup must:~~

165 ~~1. Use data provided by the department from the most recent~~  
166 ~~fiscal year to determine per diem costs for the following~~  
167 ~~activities:~~

- 168 ~~a. Custody and control;~~
- 169 ~~b. Health services;~~
- 170 ~~c. Substance abuse programs; and~~
- 171 ~~d. Educational programs;~~

172 ~~2. Include the cost of departmental, regional,~~  
173 ~~institutional, and program administration and any other fixed~~  
174 ~~costs of the department;~~

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175 ~~3. Calculate average per diem rates for the following~~  
176 ~~offender populations: adult male, youthful offender male, and~~  
177 ~~female; and~~

178 ~~4. Make per diem adjustments, as appropriate, to account~~  
179 ~~for variations in size and location of correctional facilities.~~

180 ~~(c) The consensus per diem rates determined by the~~  
181 ~~workgroup may be used to assist the Legislature in determining~~  
182 ~~the level of funding provided to privately operated prisons to~~  
183 ~~meet the 7 percent savings required of private prisons by this~~  
184 ~~chapter.~~

185 ~~(d) If a private vendor chooses not to renew the contract~~  
186 ~~at the appropriated level, the department shall terminate the~~  
187 ~~contract as provided in s. 957.14.~~

188 Section 4. Section 957.12, Florida Statutes, is amended to  
189 read:

190 957.12 Prohibition on contact.—Except in writing to the  
191 procurement office or as provided in the solicitation documents,  
192 a bidder or potential bidder is not permitted to have any  
193 contact with any member or employee of or consultant to the  
194 department regarding a competitive solicitation ~~request for~~  
195 ~~proposal~~, a proposal, or the evaluation or selection process  
196 from the time a request for proposals for a private correctional  
197 facility is issued until the time a notification of intent to  
198 award is announced, ~~except if such contact is in writing or in a~~  
199 ~~meeting for which notice was provided in the Florida~~  
200 ~~Administrative Register.~~

201 Section 5. Section 957.15, Florida Statutes, is amended to  
202 read:

203 957.15 Funding of contracts for operation, maintenance, and

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204 lease-purchase of private correctional facilities.—The request  
205 for appropriation of funds to make payments pursuant to  
206 contracts entered into by the department for the operation,  
207 maintenance, and lease-purchase of the private correctional  
208 facilities authorized by this chapter shall be included in its  
209 budget request to the Legislature as a separately identified  
210 item. ~~After an appropriation has been made by the Legislature to~~  
211 ~~the department for the private correctional facilities, the~~  
212 ~~department shall have no authority over such funds other than to~~  
213 ~~pay from such appropriation to the appropriate private vendor~~  
214 ~~such amounts as are certified for payment by the department.~~

215 Section 6. This act shall take effect July 1, 2024.