

SB 7020 by **CJ**; (Compare to H 0785) Corrections

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SB 540 by **Evers**; State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
CIVIL JUSTICE
Senator Negrón, Chair
Senator Joyner, Vice Chair

MEETING DATE: Wednesday, March 4, 2015

TIME: 10:00 a.m.—12:00 noon

PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Negrón, Chair; Senator Joyner, Vice Chair; Senators Bradley, Evers, Flores, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 7020 Criminal Justice (Compare H 785, S 212)	Corrections; Requiring the Criminal Justice Estimating Conference to develop projections of prison admissions and populations for elderly felony offenders; prohibiting an inmate from receiving incentive gain-time credits for completing the requirements for and receiving a general educational development certificate or vocational certificate if the inmate was convicted of a specified offense on or after a specified date; requiring each institution to create and maintain a system to track the use of force episodes to determine if inmates need subsequent physical or mental health treatment, etc. ACJ 03/04/2015 Fav/CS AP	Fav/CS Yeas 6 Nays 0
2	SB 540 Evers	State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections; Creating the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections; providing a purpose; requiring that any balance remaining in the trust fund at the end of the fiscal year remain in the trust fund, etc. CJ 02/16/2015 Favorable ACJ 03/04/2015 Favorable AP	Favorable Yeas 6 Nays 0
3	Budget Workshop		Not Considered
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 7020

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; and Criminal Justice Committee

SUBJECT: Corrections

DATE: March 6, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Sumner	Cannon		CJ SPB 7020 as introduced
1.	Clodfelter	Sadberry	ACJ	Recommend: FAV/CS
2.			AP	

I. Summary:

CS/SB 7020 is a bill with a wide variety of changes to the laws affecting the corrections system. Specifically, the bill:

- Revises the method of appointment for the Secretary of Corrections for appointments made on or after July 1, 2015;
- Creates the Florida Corrections Commission to oversee the safe and effective operations of major correctional institutions;
- Requires the Criminal Justice Estimating Conference to project prison admissions for elderly felony offenders;
- Removes the current restriction against assessing victim injury sentencing points against a correctional officer or employee who commits sexual misconduct with an inmate without committing sexual battery.
- Expands the Department of Correction's (department/DOC) security review inspection process to include safety considerations, the identification of blind spots, and the use of audio and video monitoring;
- Requires priority be given to inspecting those institutions with high incidents of use of force on inmates, assaults on employees, and sexual abuse of inmates;
- Expands the ability of an inmate to get a one-time award of gain-time for educational attainment without violating the requirement for every inmate to serve 85 percent of their court imposed sentence;
- Requires a Memorandum of Understanding (MOU) between the Florida Department of Law Enforcement and DOC regarding external investigations of inmate deaths be written and requires notification to the Legislature;
- Requires inspector generals to have specialized training in sexual abuse investigations in conformity with the Prison Rape Elimination Act;

- Requires multiple internal ways for inmates to file a grievance; requires the Correctional Medical Authority (CMA) and the DOC to review grievance procedures at each institution; and requires both entities to post their findings on their websites;
- Requires all correctional officer training programs to include specialized training for managing mentally ill inmates;
- Specifies that health care providers shall use an employee identification number in lieu of a name and signature when completing incident reports;
- Requires that each institution create and maintain a system to track the use of force incidents;
- Requires use of force reports written by employees to be under oath;
- Provides that an employee with two or more notations of inappropriate use of force incidents in their file not be assigned to transitional care, crisis stabilization, or mental health treatment facilities and also provides exceptions for extended good behavior;
- Includes private health care providers and employees of private correctional facilities in the list of persons who can be charged for a misdemeanor or felony for committing a battery with malicious intent or inflicting cruel or inhuman treatment by neglect;
- Creates a new third degree felony for DOC employees or employees of a private provider who willfully or by culpable negligence neglect an elderly or disabled inmate;
- Creates a new second degree felony for DOC employees or employees of a private provider who willfully or by culpable negligence neglect an inmate and in so doing cause great bodily harm;
- Authorizes DOC employees or employees of a private provider who witness abuse or neglect to anonymously report directly to the inspector general's office;
- Requires the correctional officer training program to include instruction on communication techniques to avoid the use of force;
- Requires the department to establish a policy to protect inmates and employees who report abuse or cooperate with investigations from retaliation;
- Establishes a usage and inventory policy to track the use of chemical agents and the disposal of expired, used, or damaged canisters;
- Requires the department to collect and report inmate health cost information for elderly inmates;
- Provides legislative intent related to veterans programs in state and private correctional institutions and requires the department to measure recidivism rates for veterans who participate in programs;
- Recreates the inmate welfare trust fund¹ for department operated institutions, caps the new trust fund at five million dollars, allows the funds to be used for education, chapels, visitation, libraries, wellness, televisions, and other expenditures and prohibits the fund from being used to purchase weight-training equipment;
- Requires correctional officers who have close contact with inmates housed in a mental health treatment facility to complete annual training in crisis intervention;
- Increases the frequency of mental and physical health care surveys conducted by the Correctional Medical Authority from every three years to every 18 months;
- Requires a damage provision in inmate health care contracts;
- Requires the department, in establishing minimum health care standards, to establish standards of care criteria for the needs of inmates over age 50;

¹ Contingent upon the passage of SB 540 by Senator Evers relating to State Operated Institutions Inmate Welfare Trust Fund.

- Allows for an inmate's family, lawyer, and other interested parties to hire and pay for an independent medical evaluation; and
- Expands the existing conditional medical release program to include elderly and infirm inmates which would allow the Commission on Offender Review to consider the release of elderly and infirm inmates.

Staff estimates that the bill will have a total fiscal impact of approximately \$6.9 million. This includes:

- \$5 million diverted from deposits to the General Revenue Fund into the new State Operated Institutions Inmate Welfare Trust Fund;
- Approximately \$1.3 million for personnel, equipment, and expenses of the new Corrections Commission;
- Approximately \$800,000 for additional personnel and expenses to enable the Correctional Medical Authority to increase the frequency of conducting surveys of correctional institutions;
- Approximately \$1 million to provide mental health training for correctional officers; and
- Reduced costs of approximately \$1.2 million due to decreased inmate population resulting from the expansion of eligibility for award of up to 60 days gain-time for educational achievement.

Except as otherwise provided, this bill is effective July 1, 2015.

II. Present Situation:

The Florida Corrections Commission (Commission) and Appointment of the Secretary

The Florida Corrections Commission was established in Chapter 94-117, Laws of Florida, and was abolished in 2006. The commission consisted of nine members appointed by the Governor subject to confirmation by the Senate. The primary functions of the Corrections Commission were to:

- Recommend major correctional policies and assure that approved policies and revisions are properly executed;
- Review community-based intermediate sanctions and recommend intergovernmental approaches;
- Provide a status of elderly offenders and evaluate the annual Department of Corrections' legislative budget request, the comprehensive correctional master plan, and the tentative construction program;
- Monitor the financial status of the department; and
- Regularly evaluate the efficiency, productivity, and management of the department.

The head of the Department of Corrections (department/DOC) is the Secretary of Corrections. The Secretary is appointed by the Governor, is subject to confirmation by the Senate, and serves at the pleasure of the Governor.² On January 5, 2015, Secretary Julie Jones was appointed by Governor Rick Scott to be Secretary of the Florida Department of Corrections.

² Section 20.315, F.S.

Criminal Justice Estimating Conference

Consensus Estimating Conferences have statutory authority under ss. 216.133 – 216.138, F.S., to forecast economic, demographic, caseload, and revenue information for a variety of governmental planning and budgeting functions. This ensures that the “State meets the constitutional balanced budget requirement.”³ The forecasts are “primarily used in the development of the constitutionally required Long-Range Financial Outlook, the Governor’s budget recommendations and the General Appropriations Act. Economic and demographic forecasts are also used to support estimates of revenues and demands for state services.”⁴

Specifically, the Criminal Justice Estimating Conference is statutorily tasked under s. 216.136(6), F.S., with developing forecasts of prison admissions and population and of supervised felony offender admissions and population; developing information relating to the number of eligible discharges and the projected number of civil commitments for determining needs for space; and developing information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation, or conditional release who are subject to electronic monitoring.

Security Audits of Correctional Facilities

The 1995 escape of six inmates from Glades Correctional Institute in Belle Glade resulted in the passage of legislation creating a security review committee to help to ensure public safety and contain violent and chronic offenders at correctional institutions and facilities.⁵ In addition, \$6.2 million was provided for 197 positions to help increase the relief factor and \$4.7 million for 180 security staffing positions focusing in the areas of inmate movement, emergency response, searches, and confinement escort.⁶

The committee members are appointed by the Secretary and are composed of, at a minimum, the inspector general, the statewide security coordinator, the regional security coordinators, three wardens, and one correctional officer.

The committee:

- Establishes a periodic schedule for the physical inspection of buildings and structures;
- Conducts or causes to be conducted announced and unannounced comprehensive security audits;
- Adopts and enforces minimum security standards and policies;
- Annually makes written prioritized budget recommendations to the secretary that identify critical security deficiencies at major correctional institutions;
- Investigates and evaluates the usefulness and dependability of existing security technology at the institutions and new technology available and makes periodic written recommendations to the secretary on the discontinuation or purchase of various security devices;

³ <http://edr.state.fl.us/Content/conferences/index.cfm>

⁴ *Id.*

⁵ Section 944.151, F.S.

⁶ Florida Department of Corrections Timeline, available at <http://www.dc.state.fl.us/oth/timeline/1992-1995b.html> (last visited January 29, 2015).

- Contracts, if deemed necessary, with security personnel, consulting engineers, architects, or other security experts; and
- Establishes a periodic schedule for conducting announced and unannounced escape simulation drills.

Education Gain-Time

Gain-time⁷

Gain-time is authorized in s. 944.275, F.S., and is a means by which eligible inmates can earn a reduction in the sentence that was imposed by the court. Current forms of gain-time are based upon the department's assessment that the inmate has behaved satisfactorily and engaged in constructive activities. As such, gain-time is a tool by which the department can encourage good behavior and motivate inmates to participate in programs and work assignments. Inmates who are serving life sentences or certain minimum mandatory sentences are not eligible for gain-time during the portion of time that the mandatory sentences are in effect.

Incentive gain-time is awarded to inmates for institutional adjustment, work, and participation in programs.

Meritorious gain-time may be considered for an inmate who commits an outstanding deed. The maximum award is 60 days. Examples of outstanding deeds are saving a life or assisting in recapturing an escaped inmate, or in some manner performing an outstanding service.

Educational Achievement gain-time in the amount of 60 days may be awarded to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program. Inmates whose offense was committed on or after October 1, 1995, are not eligible for this one-time award.

Department of Corrections Inspector General and Memorandum of Understanding with Florida Department of Law Enforcement (FDLE)

In 2002, legislation passed that required the department to maintain a Memorandum of Understanding with the FDLE for the notification and investigation of mutually agreed-upon predicate events. The memorandum must include, but is not limited to, reporting and investigation of suspicious deaths and major organized criminal activity.⁸ This practice had been in place previous to this legislation but had not been codified in statute.⁹

Inmate Grievance Procedure and Prison Rape Elimination Act

The department is required to establish by rule an inmate grievance procedure that conforms to the Minimum Standards for Inmate Grievance Procedures as promulgated by the U.S.

⁷ Information in this section of the analysis is derived from "Frequently Asked Questions Regarding Gaintime," <http://www.dc.state.fl.us/oth/inmates/gaintime.html#1>, viewed on January 28, 2015. Additional information regarding the history of Florida's sentencing laws and policies can be found in "Historical Summary of Sentencing and Policy in Florida," <http://www.dc.state.fl.us/pub/history/>, viewed on January 28, 2015.

⁸ Ch. 2002.75, L.O.F.

⁹ See Senate Staff Analysis CS/SB 408, January 29, 2002.

Department of Justice. This procedure is overseen by the department's Office of General Counsel. According to the department, the purpose for the procedure is to "provide inmates with a channel for the administrative settlement of a legitimate complaint."¹⁰

The Prison Rape Elimination Act of 2003 (PREA) was created to eliminate sexual abuse in confinement facilities including adult prisons and jails, lockup, community confinement facilities, and juvenile facilities. The PREA consists of 43 standards defining three goals: to prevent; detect; and respond to sexual abuse.

The department established a zero-tolerance policy for all forms of sexual abuse, sexual battery, and sexual harassment. The policy governs inmates, staff members, contractors, and volunteers. The department has two PREA coordinators to help in developing, implementing, and monitoring compliance with the standards.¹¹

Increase in Use of Force

In October 2014, a significant increase in the use-of-force cases in Florida correctional facilities prompted DOC Secretary Crews (Secretary Crews resigned in November 2014) to order an independent audit of the agency's procedures and policies involving the use of force against inmates. There were 7,300 use of force cases by Florida correctional officers in the last fiscal year. This number has "roughly doubled since 2008."¹²

Section 944.35, F.S., authorizes employees of the department to apply physical force upon an inmate only when and to the extent that it reasonably appears necessary:

- To defend himself or herself or another against an imminent use of unlawful force;
- To prevent a person from escaping;
- To prevent damage to property;
- To quell a disturbance;
- To overcome physical resistance to a lawful command; or
- To administer medical treatment by or under the supervision of a physician.

The Criminal Justice Standards and Training Commission (CJSTC) is required to develop a course designed to explain and teach the parameters of the proper methods and techniques in applying authorized force.

Prior to any authorized use of force, Rule 33-602.210, F.A.C., requires the shift supervisor to review the Risk Assessment Form for Use of Chemical Restrain Agents and Electronic Immobilization Devices to determine whether the inmate has a medical condition that may exacerbate the intended force.

¹⁰ Section 944.331, F.S.

¹¹ See Florida Department of Corrections, Prison Rape Elimination Act <http://www.dc.state.fl.us/oth/PREA/> (last visited January 28, 2015).

¹² "Florida prison boss orders use-of-force audit" Miami Herald, December 17, 2014. <http://www.miamiherald.com/news/special-reports/florida-prisons/article2925586.html>

Criminal Justice Standards and Training Commission (CJSTC) Advanced Training Program

In 2006, the CJSTC adopted in its Advanced Training Program a course entitled Managing and Communicating with Inmates and Offenders. It is a 40-hour course intended for law enforcement officers, corrections officers, and correctional probation officers. Officers completing this course may be eligible for a salary incentive under s. 943.22, F.S. Attendance in this course is voluntary. The goal of the course is to identify management and communication skills relating to officer safety when dealing with offenders and inmates who have mental illness, substance abuse, and co-occurring disorders and where such skills may increase the safety and security of a well-run facility. This course describes many of the different types of disorders an officer may encounter and provides various methods and techniques for de-escalation and inmate/offender management.

The Correctional Basic Recruit Training Program provides a lesson on communications and a separate lesson on inmates with mental illness. Neither lesson meets the intent of s. 944.35, F.S., as amended in this bill.¹³

Criminal Punishment Code/Sentence Point Multipliers

The Criminal Punishment Code (ss. 921.002 – 921.0027, F.S.) is Florida's framework for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies receive an offense severity level ranking from Levels 1 to Level 10. If an offense is not assigned a specific offense severity ranking in statute, the ranking is determined by the felony degree of the offense.¹⁴

Sentencing points are assessed based upon the offense severity ranking, with more points assessed for higher ranked offenses. If applicable, additional points are assessed for additional concurrent offenses, prior offenses, victim injury, legal status violations, community sanction violations, and possession of a firearm.

If total sentence points are less than or equal to 44 points, the lowest permissible sentence is any nonstate prison sanction (e.g., probation). Generally, the sentencing range is a nonprison sanction up to the maximum penalty for the felony degree of the primary offense. For example, the maximum penalty for a third degree felony is five years in state prison. With one exception, the court may sentence the offender within the range of a nonprison sanction up to five years imprisonment. Sentences for multiple offenses may be imposed concurrently or consecutively.

The exception is when total sentence points are 22 points or less and the primary offense is a nonforcible felony that meets criteria in s. 775.082(10), F.S. In this case, there is no sentencing range. The court must impose a nonprison sanction, unless the court makes a written finding that such sentence would be a danger to the public.

¹³ 2015 FDLE Legislative Bill Analysis

¹⁴ For example, a third degree felony is ranked within offense level 1. *See* s. 921.0023, F.S.

If total sentence points are greater than 44 points, those points are reduced by 28. This total is then multiplied by 0.75 to determine the lowest permissible sentence in prison months. For example, if an offender's primary offense is a second degree felony and he or she has 80 total sentence points, the 80 points are reduced by 28, which equals 52 points. The 52 points are then multiplied by 0.75, which equals 39 months in prison. In this example, absent mitigation,¹⁵ the sentencing range is 39 months in state prison up to 15 years in state prison (the maximum penalty for a second degree felony).

Victim injury points are assessed for physical injury or death suffered by a person as a direct result of the offense for which the offender is being sentenced. Victim injury points are also assessed for sexual contact or sexual penetration. If there is both physical injury and sexual contact or sexual penetration, victim injury points for the physical injury are assessed separately and in addition to any points scored for the sexual contact or sexual penetration. Eighty victim injury points are assessed for sexual penetration, and forty victim injury points are assessed for sexual contact. However, victim injury points cannot be assessed for sexual contact or sexual penetration if the offense is a violation of s. 944.35(3)(b)2., F.S. (sexual misconduct with an inmate or supervised offender by a correctional employee) or s. 872.06 (abuse of a dead human body).¹⁶

Criminal Penalties and Employee Misconduct

Employees of the department who, with malicious intent, commit a battery on an inmate supervised by the department, commit a first degree misdemeanor. Employees who, with malicious intent, commit a battery or inflict cruel or inhuman treatment by neglect causing great bodily harm, permanent disability, or permanent disfigurement to an inmate commit a third degree felony.¹⁷

Sentencing for Sexual Misconduct with an Inmate or Supervised Offender

Section 944.35(3)(b)2., F.S., prohibits an employee of the department or a private correctional facility from engaging in sexual misconduct with an inmate or an offender on community supervision. "Sexual misconduct" is defined as the "oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty."¹⁸ Sexual misconduct is prohibited regardless of whether the activity is non-consensual or consensual. However, if the activity is non-consensual, the more serious offense of sexual battery could be charged. The offense is a third degree felony, punishable by imprisonment for a maximum five years and a potential fine not exceeding \$5,000.

¹⁵ The Code includes a list of 'mitigating' factors. See s. 921.0026, F.S. If a mitigating factor is found by the sentencing court, the court may decrease an offender's sentence below the lowest permissible sentence (a "downward departure"), unless there is a mandatory minimum term.

¹⁶ See s. 921.0021(7), F.S.

¹⁷ Section 944.35(3)(a), F.S.

¹⁸ Section 944.35(3)(b)1., F.S.

Sexual Misconduct with an Inmate or Supervised Offender is ranked by default as a Level 1 offense, which means that four sentencing points are scored. No victim injury points can be assessed for sexual contact or sexual penetration for a violation of s. 944.35(3)(b)2., F.S., and correctional employees can be expected to have no significant prior offenses for which sentencing points would be added. Therefore, it is unlikely that there would be more than 22 total sentencing points. Because s. 944.35(3)(b)2., F.S., is not a forcible felony and the sentencing points total would likely be 22 or lower, s. 775.082(10), F.S., would limit the sentence to a nonprison sanction.

Abuse and Neglect of an Elderly Person or Disabled Adult; penalties

Section 825.102, F.S., provides in part that a person who commits aggravated abuse of an elderly person or disabled adult commits a felony of the first degree. A person who willfully or by culpable negligence neglects an elderly person or disabled adult and, in so doing, causes great bodily harm commits a felony of the second degree. A person who willfully or by culpable negligence neglects an elderly or disabled adult without causing great bodily harm commits a third degree felony.

Elderly Offenders

Section 944.8041, F.S., requires the department and the Correctional Medical Authority to each submit an annual report on the status and treatment of elderly offenders in the state-administered and private state correctional systems and the geriatric facilities and dorms. The report must also include an examination of promising geriatric policies, practices, and programs currently implemented in other correctional systems within the United States. Inmates age 50 and older are classified as “aging or elderly” under the Florida Administrative Code.¹⁹

The department reported that the number of elderly inmates in state prison has steadily increased from 11,178 on June 30, 2006, to 20,753 on June 30, 2014, with an expectation of a continued increase over the next decade.²⁰

The Correctional Medical Authority’s 2013-2014 Report on Elderly Offenders reported the following findings and recommendations concerning elderly offenders:

The CMA’s report on the status of elderly offenders continues to show that older inmates have more health problems and generally consume more health care services than younger inmates. The demands of caring for the elderly continue to have an impact on corrections’ health care costs. According to The National Institute of Corrections, the overall cost of incarceration for inmates over 50 is as much as three times higher than for the younger population mostly due to the difference in health care costs. Across the country the impact of rising health care costs, especially for elderly inmates, is similar to the impact in Florida.

¹⁹ R. 33-601-217, F.A.C.

²⁰ <http://www.dc.state.fl.us/pub/annual/1314/ar-additional-facts-elderly.html>

Florida's elderly prison population has increased almost 5 percent over the last 5 years and is expected to gain over 6,000 inmates by the end of the next fiscal year. Considering the trend of increasing elderly inmate populations and health care costs, the CMA supports medical passes and special accommodations (e.g., low bunks, special shoes, wheelchairs, etc.) provided to older inmates housed in DOC's general population. DOC policies ensuring periodic screenings, regularly scheduled clinic visits, and the establishment of specific facilities for elderly inmates in need of a higher level of care improves the health of elderly inmates. Improved health status within the aging population will serve as a positive cost-containment measure.

It is recommended that DOC continue to examine and consider the needs of inmates over 50 when establishing standards of care criteria for the private health care providers. Additionally, reporting of detailed health care costs for aging inmates would be beneficial for analysis of projected needs to adequately care for the elderly population in the coming years.²¹

Elderly Inmates in Prison on June 30, 2014

- The majority of elderly inmates in prison on June 30, 2014, were serving time for sex offenses (21.6 percent), murder/manslaughter (20.8 percent), or drug offenses (12.9 percent).
- The 20,753 elderly inmates in prison on June 30, 2014, represented 20.6 percent of the total inmate population.
- 94.6 percent of the elderly inmates in prison were male; 5.4 percent were female.
- 46.2 percent of the elderly inmates in prison had no prior prison commitments.
- On June 30, 2014, the department housed three inmates whose age was 92.

Most of the elderly inmates are housed separately from the general population for purposes of reducing the potential for predatory and abusive behavior by younger, more aggressive inmates and to promote efficient use of medical resources. There are three centers currently housing elderly inmates:

- Reception and Medical Center on-site in Lake Butler;
- South Unit of the Central Florida Reception Center; and
- Zephyrhills Correctional Institution.

Increased Costs for Elderly Inmates

Florida TaxWatch in September 2014 reported that the department budget had grown by \$560 million (35 percent) from 2000-2012. The health care cost had grown by \$176 million or 76 percent. The report states that the elderly patients accounted for 49 percent of all hospital in days in 2012. By assuming that hospitalization is a representation of overall prison health care costs,

²¹ Florida Correctional Medical Authority, 2013-2014 Annual Report and Report on Elderly Offenders, p. 35. A footnote within the quote is omitted.

the report states the elderly prison population is responsible for approximately half of the \$408 million in prisoner healthcare costs in 2012.²²

The Department of Corrections (DOC) reports that the Pew Center on Research estimated that the overall cost of managing an elderly prisoners is \$70,000 annually. This yields a per diem cost of \$192 per inmate compared to the average DOC per diem of \$50 per inmate.²³

Veterans Programs in Correctional Facilities

In 2012, the department established Veteran's Dormitories at Santa Rosa, Gulf, Martin, Sumter, and Lowell Correctional Institutions. The five dormitories house a total of 400 inmates. These dormitories provide inmates the opportunity to participate in specialized pre-release services including cognitive thinking training, Post-Traumatic Stress Disorder (PTSD) counseling, improved access to Veteran's Affairs benefits, and strict military standards.²⁴

Inmate Welfare Trust Fund and Revenue Received from Canteen Sales

For many years prior to 2003, a trust fund created in s. 945.215, F.S., allowed the department to use revenue from the purchase of inmate canteen items and inmate telephone calls to fund chapels, education, and wellness programs at publicly operated correctional facilities. The source of the most of the revenue was family and friends of the inmates. Chapter 2003-179, Laws of Florida, eliminated the trust fund and required the revenue from inmate canteens, telephone usage, and other revenue generators to go directly into the General Revenue Fund. Although s. 945.215, F.S., was amended to eliminate the Inmate Welfare Trust Fund for state operated correctional facilities, the Inmate Welfare Trust Fund for privately operated facilities was maintained in the law. Consequently, under current law, revenue from the purchase of canteen items and from telephone usage in the DOC operated institutions is deposited into General Revenue and not earmarked for inmate welfare or betterment programs.

According to a January 15, 2015, Auditor General audit of the department's canteen operations, from July 2012 through February 2014 sales in department institution canteens totaled approximately \$133.31 million and catalog sales totaled \$868,474. The department received MP3 program commissions from Keefe Commissary Network totaling \$940,412 from MP3 program sales totaling \$5.99 million.²⁵

The chart below shows the department's revenue collections from funding sources for the Inmate Welfare Trust Fund before s. 945.215, F.S., was amended to direct those revenues to the General Revenue Fund:

²² "Florida's Aging Prisoner Problem," Florida TaxWatch, September 2014.

²³ Florida Department of Corrections 2013-2014 Annual Report, Elderly Inmates at <http://www.dc.state.fl.us/pub/annual/1314/ar-additional-facts-elderly.html> (Last visited February 25, 2015).

²⁴ Florida Department of Corrections Opens Five Veteran's Dormitories, November 9, 2011 at <http://www.dc.state.fl.us/secretary/press/2011/11-09VetDorms.html> (last visited January 29, 2015).

²⁵ Report No. 2015-087, January 2015, "Department of Corrections Canteen Operations and Prior Audit Follow-up."

REVENUE COLLECTION SUMMARY PREVIOUS INMATE WELFARE TRUST FUND SOURCES (IWTF) FY 2009-2010 – FY 2013-2014						
Description	Authorizing Statute	Fiscal Year 2009-2010	Fiscal Year 2010-2011	Fiscal Year 2011-2012	Fiscal Year 2012-2013	Fiscal Year 2013-2014
General Revenue Unallocated (GRU) Collections (funding sources for previous IWTF):						
Canteen Commissions ²⁶	s. 945.215(1)(a) FS	31,382,837	31,162,387	30,970,697	30,907,621	31,027,325
Telephone Commissions	s. 945.215(1)(b) FS	5,294,749	5,205,804	5,156,269	5,334,549	6,142,399
Vending Commissions	s. 945.215(1)(a) FS	250,234	343,096	357,371	369,591	212,345
ITF Balances <\$1.00	s. 944.516(5) FS	1,367	1,194	1,219	1,197	1,211
Total GR Deposits		\$36,930,554	\$36,712,481	\$36,485,556	\$36,612,958	\$37,383,280

Rights of Inmates Provided Mental Health Treatment

The Corrections Mental Health Act (ss. 945.40 through 945.49, F.S.) provides for the evaluation and appropriate treatment of mentally ill inmates who are in the department's custody. It establishes procedures for involuntary placement of an inmate into a hospital setting for the purpose of mental health treatment.

Section 945.48, F.S., provides that an inmate in a mental health treatment facility has the right to receive treatment suited to his or her needs and provided in a humane psychological environment. The inmates provided psychiatric treatment must be asked to give express and informed written consent for the treatment. In addition, there are specific procedures for involuntary treatment of inmates and when and how hearings on involuntary treatment must be conducted.

Correctional Medical Authority

The Correctional Medical Authority (CMA) was created in July 1986, while the state's prison healthcare system was under the jurisdiction of the federal court as a result of litigation that began in 1972. *Costello v. Wainwright* (430 U.S. 57 (1977)) was a class action suit brought by inmates alleging that their constitutional rights had been violated by inadequate medical care, insufficient staffing, overcrowding, and poor sanitation. The CMA was created as part of the settlement of that case and continues to serve as an independent monitoring body providing oversight of the systems in place to provide health care to inmates in the Department of Corrections. In the final order closing the case, Judge Susan Black noted that creation of the CMA made it possible for the Federal Court to relinquish the prison monitoring and oversight function it had performed for the prior twenty years. In light of "Florida's affirmation of its continued commitment to the CMA's independence" and the support from the Defendant and the State of Florida, the court found that the CMA was capable of "performing an oversight and monitoring function over the department in order to assure continued compliance with the orders entered in this case."

In December 2001, the DOC entered into a settlement agreement in a lawsuit (*Osterback v. Crosby*, 16 Fla. Weekly Fed. D 513 (N.D. Fla. 2003)) involving mentally ill inmates housed in close management. The purpose of close management is to confine inmates separate from the general inmate population for reasons of security and for the order and effective management of the prison system. The Osterback agreement included a stipulation that the CMA monitor

²⁶ Canteen commissions include MP3 music program sales.

provisions of the agreement including clinical, administrative, and security components of the program designed to ensure effective treatment of mental illness in the close management population. The CMA completed its special monitoring responsibilities pending the outcome of the federal court's hearing of the case. The department completed and complied with each component of the close management corrective action plan process. The court entered a final judgment ruling in favor of the department and the case was closed on March 28, 2008. Facilities with close management are now monitored as part of the regular CMA survey process.

The CMA has stated that “*Osterback*, along with the multitude of lawsuits related to the provision of correctional health care, serve as reminders of the CMA’s important role in ensuring proper health and mental health care is provided to incarcerated members of society.”²⁷

Prior to July 1, 2011, the CMA was housed within the Department of Health (DOH) for administrative purposes. During the 2011 Legislative Session two bills designed to abolish the CMA passed both chambers and were sent to the Governor for approval: Chapter 2011-69, Laws of Florida, (the 2011 General Appropriations Act), which eliminated the funding and positions related to the authority; and HB 5305, which repealed the statutes related to the CMA. The Governor vetoed HB 5305, but not the General Appropriations Act. Therefore, the CMA existed in statute but did not have the funding to operate or perform its duties for the 2011-2012 fiscal year. The CMA was funded again in 2012 and reconstituted as an independent state agency housed within the administrative structure of the Executive Office of the Governor.

The governing board of the authority is composed of nine persons appointed by the Governor subject to confirmation by the Senate. Members of the CMA are not compensated for performance of their duties but they are paid expenses incurred while engaged in the performance of such duties pursuant to s. 112.061, F.S.

Conditional Medical Release and Geriatric-Related Release Policies in Other States

In 1992, the Florida Legislature created the Conditional Medical Release Program (s. 947.149, F.S.) which is a discretionary release process allowing the Florida Commission on Offender Review (FCOR) to release inmates on supervision who are “terminally ill” or “permanently incapacitated” and who are not a danger to others. The department is charged with the responsibility of recommending to the FCOR inmates who are eligible to be considered for conditional medical release. Upon release, the offender is subject to conditions of supervision set by the FCOR. The FCOR monitors the offender’s progress through periodic medical reviews. Supervision can be revoked and the offender returned to prison if the FCOR determines that a willful and substantial violation of supervision has occurred or if their medical or physical condition improves to the point that the offender no longer meets release criteria. In Fiscal Year 2013-2014, the FCOR granted conditional medical release to eight of the 19 inmates recommended by the department.

Under current law, Florida does not have a geriatric-based release policy as exists in many states. Louisiana has such a policy and considers inmates as young as 45 years old for geriatric release.

²⁷ The first two paragraphs of this section and the designated quote are from the State of Florida, Correctional Medical Authority 2012-2013 Annual Report and Report on Aging Inmates, http://www.flgov.com/wp-content/uploads/pdfs/correctional_medical_authority_2012-2013_annual_report.pdf (last viewed February 25, 2015).

Alabama considers inmates beginning at age 55, and the remainder of states with geriatric-based release policies begin considering inmates for release beginning between ages 60 to 65 (these include Virginia, North Carolina, Colorado, Washington D.C., New Mexico, Maryland, Oklahoma, and Wisconsin).²⁸ The federal system considers inmates for geriatric release at age 70.²⁹

III. Effect of Proposed Changes:

Section 1 revises the method of appointment of the Secretary of Corrections for appointments made after July 1, 2015. The new method provides for appointment by the Governor with the concurrence of three members of the Cabinet.

Section 1 also creates the Florida Corrections Commission (Commission). The commission is administratively assigned to the Department of Corrections (department/DOC) but will function independently. The primary purpose of the commission will be to ensure the safe and effective operations of prisons. The commission will consist of nine members appointed by the Governor and subject to confirmation by the Senate. To the extent possible, the composition must include a person with a background in law enforcement or jail management, a person with a background in criminal prosecution, a person with a background in criminal defense, a pastor or former prison chaplain, a community leader, and a business leader.

The primary duties of the Commission will be to:

- Conduct investigations, including internal affairs investigations and criminal investigations;
- Inspect both public and private correctional facilities;
- Identify and monitor high-risk facilities;
- Monitor violence in the prisons and the introduction of contraband;
- Submit an annual report to the Governor and the Legislature;
- Develop budgetary, legislative, and operational recommendations for improvements to our correctional system;
- Review the annual legislative budget request of the department and make recommendations and comments on the budgetary requests;
- Convene public hearings, with the commission able to issue subpoenas and take sworn testimony;
- Conduct confidential interviews with employees, inmates, contract providers, volunteers, and citizens relating to the operations and conditions of the prisons; and
- Develop and implement a set of standards and performance measures to establish and track an accountability system for each prison.

The Commission is prohibited from entering into the day-to-day operations, but may conduct investigations. It is required to meet at least six times per year, with the meetings held at major correctional facilities. The Commission must appoint an executive director, and the executive director may employ staff with the Commission's consent.

²⁸ "It's About Time: Aging Prisoner, Increasing Cost, and Geriatric Release," April 2010, Vera Institute of Justice.

²⁹ "Florida's Aging Prisoner Problem," September 2014, Florida Taxwatch.

Section 2 provides that the amendments made by this act to s. 20.315(3), F.S., do not apply to a Secretary of Corrections appointed before July 1, 2015. Secretary Julie Jones was appointed on January 5, 2015.

Section 3 amends s. 216.136, F.S., to require the Criminal Justice Estimating Conference to develop projections of prison admissions and populations for elderly felony offenders.

Section 4 deletes s. 921.0021(7)(c), F.S., removing the prohibition against assessing victim injury points for sexual penetration or sexual contact in calculating the sentencing score for Sexual Misconduct with an Inmate or Supervised Offender (s. 944.35(3)(b)2., F.S.). By definition, the offense cannot be committed without either sexual contact or sexual penetration. Currently, in almost all cases the sentencing range would be limited to a nonprison sanction because no more than 22 sentencing points would be scored. The amendment significantly changes the sentencing range:

- If there was sexual contact, the offender would have a minimum of 44 sentencing points (four points for the base offense plus 40 victim injury points). A total sentencing score of 44 would allow the judge to impose any sentence from a nonprison sanction to the five year maximum prison sentence. If there are additional sentencing points, a prison sentence would be required unless the judge finds statutory grounds for a departure below the minimum permissible sentence.³⁰
- If there was sexual penetration, the offender would have a minimum of 84 sentencing points (four points for the base offense plus 80 victim injury points). A total sentencing score of 84 would permit the judge to impose any sentence from 42 months in prison to the five year maximum prison sentence.

Section 5 amends s. 944.151, F.S., to expand the legislative intent to include “safety” as part of the department’s responsibilities in operating the correctional institutions and facilities. It requires that the department ensure the safety of department employees and offenders. It also includes institutions with a high level of substantiated or unsubstantiated incidents of use of force on inmates, assaults on employees, or inmate sexual abuse as part of the department’s periodic physical inspections. In conducting announced and unannounced audits of all state and private correctional institutions, the bill requires that the evaluation include the identification of blind spots or areas where staff or inmates may be isolated and the deployment of audio and video monitoring systems and other monitoring technologies in such areas.

Section 6 amends s. 944.275, F.S., to allow inmates sentenced for an offense committed on or after October 1, 1995, to be eligible for education attainment gain-time in the amount of 60 days. If this bill becomes law, an inmate may receive a one-time award of 60 days of gain-time for receiving a General Education Development (GED) diploma or for earning a certificate for completion of a vocational program. Under current law, inmates whose offense was committed on or after October 1, 1995, are not eligible for this one-time award.

³⁰ The fewest additional sentencing points that can be assessed are 0.2 points for a concurrent or prior misdemeanor. A correctional employee who has a concurrent or prior misdemeanor and who is convicted of Sexual Misconduct with an Inmate or Supervised Offender would score 44.2 points, yielding a minimum permissible sentence of 1 year, 4 days.

Section 7 amends s. 944.31, F.S., to require that memorandums of understanding (MOU) between the department and the Florida Department of Law Enforcement (FDLE) be in writing and that a copy of an active MOU be provided in a timely manner to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Under current law, MOU's are formed between the two agencies to, among other events, investigate suspicious deaths and organized criminal activity.

A new subsection (4) is created to require that the inspector general and inspectors who conduct sexual abuse investigations in confinement settings receive specialized training in conducting the investigations. Specialized training must include techniques for interviewing sexual abuse victims, proper use of Miranda and Garrity warnings, sexual abuse evidence collection in confinement settings, and the criteria and evidence required to substantiate a case for administrative action or prosecution.

The Prison Rape Elimination Act (PREA) has set national standards for the prevention, detection, and response to sexual victimization. Each Department of Corrections' institution will be audited for compliance with the PREA standards. Failure to meet the PREA standards may result in the loss of federal grant funds. According to the department's legislative budget request for Fiscal Year 2015-2016, standard 115.34 requires all investigators to attend specialized training to ensure sexual abuse investigations are conducted properly.

Section 8 amends s. 944.331, F.S., to require the department to provide multiple internal avenues for inmates to privately report sexual abuse and sexual harassment and any staff neglect of, or failure to perform, responsibilities which may have contributed to the incidents. The reports may be made in writing, anonymously, or by third parties.

The bill requires the department, in consultation with the CMA, to review inmate grievance procedures at each correctional institution and private correctional facility to determine the procedural soundness and effectiveness of the grievance process, to identify employees prone to misconduct, and to identify life-threatening inmate health and safety concerns.

Beginning October 1, 2015, the bill requires the department and the CMA to annually report their joint findings to their respective websites. The authority shall document findings on the:

- Effectiveness of inmate health care grievance procedures;
- Number of health care grievances filed by inmates, by institution, and by region;
- Types of health care problems alleged by inmates; and
- Actions taken by the department or the authority as a result of its investigation of inmate health care grievances.

Section 9 amends s. 944.35, F.S., to require correctional officers to have specialized training in effective non-forceful management of mentally ill inmates who exhibit erratic behavior.

The identity of the health care provider shall be designated by using an employee identification number in lieu of a name and signature when completing incident reports.

The bill requires that each institution create and maintain a system to track episodes involving the use of force to determine if inmates require subsequent physical or mental health treatment.

By October 1 of each year, the department shall post on the agency website a report documenting incidents involving the use of force during the previous fiscal year. The report shall include, but not be limited to:

- Descriptive statistics on the reason force was used and whether the use of force was deemed appropriate;
- Multi-year statistics documenting annual trends in the use of force;
- Information on the level of inmate or officer injury, including death, in incidents involving the use of force;
- A breakdown, by institution, of statistics on use of force; and
- Statistics on the number of employees who were disciplined or terminated because of their involvement in incidents involving the inappropriate use of force, based on notations of such incidents in their personnel files.

The bill prohibits an employee with two or more notations in the employee's file related to inappropriate use of force to be assigned to transitional care, crisis stabilization, or corrections mental health treatment facility inmate housing units. However, this requirement may be waived if the employee has remained free of inappropriate use of force incidents for a significant length of time.

The bill clarifies that employees of private providers and private correctional facilities can be prosecuted for committing battery with malicious intent (a misdemeanor) or battery or cruel and inhuman treatment with malicious intent that causes great bodily harm (a felony) on an inmate or supervised offender. The statute currently applies explicitly only to employees of the department.

The bill defines "neglect of an inmate" as a failure or omission on the part of an employee of the department, private provider, or private correctional facility to:

- Provide an inmate with the care, supervision, and services necessary to maintain the inmate's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the inmate; or
- Make a reasonable effort to protect an inmate from abuse, neglect, or exploitation by another person.

Determinations of neglect of an inmate may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or psychological injury or risk of death.

The bill creates two new felony offenses for neglect of an inmate. An employee of the department, a private provider, or a private correctional facility who willfully or by culpable negligence neglects an elderly or disabled inmate without causing great bodily harm commits a third degree felony, punishable by up to 5 years in state prison. An employee of the department, a private provider, or a private correctional facility who willfully or by culpable negligence neglects any inmate and causes great bodily harm commits a second degree felony, punishable by up to 15 years in state prison.

The bill requires the correctional officer training program to include instruction on communication techniques related to crisis stabilization to avoid use of force. It requires the department to establish a policy to protect inmates and employees who report physical or sexual abuse from retaliation. The policy must establish multiple protective measures for both inmates and employees relating to the reporting of abuse and designate a method of monitoring follow up.

According to the FDLE, its Advanced Training Program course, ‘Managing and Communicating with Inmates and Offenders,’ will have to be revised to incorporate additional techniques using non-forceful ways or the least amount of force necessary to effectively manage mentally ill inmates who exhibit erratic behavior. The FDLE states that an extensive revision in these areas will be required, which may result in an increase in hours for the Correctional Basic Recruit Training Program. The program is currently 420 hours.

The bill requires the department to establish a usage and inventory policy to track, by institution, the use of chemical agents and the disposal of expired, used, or damaged canisters of chemical agents.

Section 10 amends s. 944.8041, F.S., by requiring the department to report the cost of health care to elderly inmates in the annual report. The must include the average incarceration cost per year and the types of health care delivered which result in the highest expenditures.

Section 11 creates s. 944.805, F.S., relating to veterans’ programs in state and private correctional institutions. The bill provides legislative intent for specialized programs for veterans to facilitate inmate institutional adjustment, help inmates assume personal responsibility, and ease community reentry through availability of expanded community resources. It also provides legislative intent that veterans housed in state and private correctional institutions be provided special assistance before their release by identifying benefits and services available in the community where the veteran plans to reside.

The bill requires the department to measure recidivism rates for veterans who have participated in specialized dormitories and who have received special assistance in community reentry and to include the data in the annual report.

Section 12 establishes the purpose, revenue sources, and uses for the State Operated Institutions Inmate Welfare Trust Fund (trust fund), contingent upon creation of the trust fund by passage of SB 540. The bill provides that the department hold this trust fund for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department. Deposits into the trust fund are limited to five million dollars in any fiscal year. Revenues in excess of five million dollars during a fiscal year will be deposited into the General Revenue Fund.

The funds in the trust fund must be used exclusively for correctional facilities operated by the department to:

- Provide literacy programs, vocational training programs, and educational programs;
- Operate inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries;

- Provide inmate substance abuse treatment programs and transition and life skills training programs;
- Provide for the purchase, rental, maintenance or repair of electronic or audio visual equipment used by inmates;
- Provide for the purchase, rental, maintenance or repair of recreation and wellness equipment; or
- Provide for the purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work release program.

There is a specific prohibition against using the trust fund to purchase weight-training equipment. Funds in the trust fund may be expended only pursuant to legislative appropriation.

Section 13 amends s. 945.48, F.S., to require annual crisis intervention training for correctional officers who have close contact with inmates housed in a mental health facility. Correctional officers who have two or more notations involving inappropriate use of force in their personnel files may not be assigned to transitional care, crisis stabilization, or corrections mental health treatment facility inmate housing units. However, an employee with two or more notations in the employee's file who remains free of inappropriate use of force incidents for a significant period may be permitted to work in these units.

Section 14 amends s. 945.6031, F.S., to change the frequency of surveys of the physical and mental health care system at each institution from every three years to every 18 months.

Section 15 amends s. 945.6033, F.S., to require the department to include damage provisions in health care contracts.

Section 16 amends s. 945.6034, F.S., to require the department to consider the needs of inmates over 50 years of age and to adopt health care standards for that population.

Section 17 amends s. 945.6039, F.S., to require the department to promulgate rules and to permit an inmate's family member, lawyer, or interested party to hire and pay for an independent medical evaluation or examination by a medical professional of an incarcerated inmate. The results of the medical evaluation or examination must be provided to the department and to the Florida Commission on Offender Review. The bill states that the purpose of this provision is to assist in the delivery of medical care to the inmate and to assist the Florida Commission on Offender Review in considering an inmate for conditional medical release.

Section 18 amends s. 947.149, F.S., to expand the eligibility for the conditional medical release program to include elderly and infirm inmates. The bill defines an "elderly and infirm inmate" as an inmate who has no current or prior convictions for capital or first degree felonies, who has no current or prior convictions for sexual offenses or offenses against children, who is over 70 years of age, and who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate infirm or physically impaired to the extent that the inmate does not constitute a danger to himself or herself or others.

Sections 19, 20, and 21 amend s. 921.0021 and s. 921.221, F.S., by conforming cross-references to changes made by this act.

Sections 22, 23, and 24 reenact certain sections and make conforming changes.

Section 25 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Correctional Medical Authority

While no official estimates from the Department of Corrections (department/DOC), the Correctional Medical Authority (CMA), the Commission on Offender Review, or the Criminal Justice Impact Conference were available at the writing of this report, it is anticipated that the following sections of CS/SB 7020 will present the most likely fiscal impact:

Section(s) of the Bill	Issue	Estimated Fiscal Impact
1	Creates the Florida Corrections Commission.	Estimated fiscal impact of approximately \$1.3 million recurring general revenue funds for personnel, travel and expenses. Estimated non-recurring expense of \$96,000.
4	Allows assessment of victim injury against a correctional officer or employee who violates s. 944.34(3)(b)2., F.S.	The Criminal Justice Impact Conference has not yet considered the impact of this section on the prison inmate population. However, the Office of Economic and Demographic Research reports that only six persons were convicted of the offense from 2009 to 2014.

Section(s) of the Bill	Issue	Estimated Fiscal Impact
5	Expands use of education gain-time.	Cost savings – The department projects average daily prison population to be reduced by 66 inmates each year, resulting in an annual cost reduction of approximately \$1.2 million.
6	Requires specialized training for sexual abuse investigations by DOC inspectors.	Need for indeterminate increase in funding for the department.
8	Creates two new criminal penalties for neglect of inmates.	Most likely will have an insignificant prison bed impact.
8	Requires the Criminal Justice Standards and Training Commission (within the Florida Department of Law Enforcement) to enhance the corrections basic recruit training program and revise the advance training program to avoid use of force on inmates and managing inmates who are mentally ill.	According to FDLE, the additional workload may be absorbed within existing resources.
11	Creates the inmates welfare trust fund for the department.	Diverts \$5 million that currently goes into the General Revenue Fund into the new trust fund.
13	Increases the frequency of CMA surveys from every 3 years to every 18 months.	Estimated fiscal impact of approximately \$790,000 for additional personnel and expenses.
16	Allows inmate's family, lawyer or interested party to hire and pay for an independent medical evaluation.	Additional workload by the department expected. Fiscal impact unknown.
17	Expands the current conditional release program to include elderly and infirm inmates.	Cost savings – has the potential to reduce average daily prison population slightly (97 inmates meet criteria for release consideration). Additional workload by the Offender Review Commission may be able to be absorbed within existing resources.

Education Gain-time

According to the preliminary projections by the department, approximately 650 inmates will immediately receive the one-time 60 day additional gain-time award for past educational attainments. It is estimated that approximately 60 of these inmates will be immediately released due to this award since this group is within 60 days of release. In terms of future impact on prison bed space, the department estimates 24,000 inmate-days will be saved per year as a result of this bill. In other words, the average daily prison population is projected to be reduced by 66 inmates over the course of the year. Reduction of the average daily population by 66 inmates would reduce costs by approximately \$1.2 million each year at the current inmate per diem cost of \$49.49.

Elderly and Infirm Inmates

The following table was provided by the department to show the medical grades for those elderly inmates in custody as of January 16, 2015.

“Elderly and Infirm” Inmates Over the Age of 70 who are Eligible³¹ under the Bill to be Reviewed by the Commission and Possibly Released Under the Conditional Medical Release Program							
Age 70-plus	Current Medical Grade in the Department						
	Medical Grade Unknown	Routine care	Currently in Chronic Illness Clinic for six months	Currently in Chronic Illness Clinic for three months	Chronic Illness Clinic and Regular Health Contact	Long Term In-Patient Housing	Total Eligible Inmates as of 1-16-15
TOTAL	1	11	51	32	1	1	97

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.315, 216.136, 944.151, 944.275, 944.31, 944.331, 944.35, 944.8041, 945.215, 945.48, 945.6031, 945.6033, 945.6034, 947.149, 921.0021, 948.10, 951.221, 435.04, 921.0022, 944.72, 945.21501, 945.2151, and 945.6035.

This bill creates the following sections of the Florida Statutes: 944.805 and 945.6039.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice on March 4, 2015:

The Committee Substitute:

- Revises the membership of the new Corrections Commission to address concerns that including a sheriff, state attorney, and public defender may violate the prohibition against dual office holding in Art. 2, s. 5 of the Florida Constitution.
- Removes the current restriction against assessing victim injury sentencing points against a correctional officer or employee who commits sexual misconduct with an inmate without committing sexual battery.

³¹ To be eligible for possible early release the 70-plus year old inmate must meet criminal history limitations in the bill (have no current or prior convictions for capital or first degree felonies and who has no current or prior convictions for sexual offenses or offenses against children).

B. Amendments:

None.

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



341086

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2015	.	
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	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Evers) recommended the following:

Senate Amendment

Delete lines 222 - 224
and insert:
greatest extent possible, include a person with a background in
law enforcement or jail management, a person with a background
in criminal prosecution, a person with a background in criminal
defense, a pastor or former prison chaplain, a community leader,
and a business leader.



707376

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2015	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Evers) recommended the following:

Senate Amendment (with title amendment)

Between lines 307 and 308
insert:

Section 4. Paragraphs (c), (d), and (e) of subsection (7)
of section 921.0021, Florida Statutes, are amended to read:

921.0021 Definitions.—As used in this chapter, for any
felony offense, except any capital felony, committed on or after
October 1, 1998, the term:



707376

(7)

~~(e) The sentence points provided under s. 921.0024 for sexual contact or sexual penetration may not be assessed for a violation of s. 944.35(3)(b)2.~~

(c)~~(d)~~ If the conviction is for the offense described in s. 872.06, the sentence points provided under s. 921.0024 for sexual contact or sexual penetration may not be assessed.

(d)~~(e)~~ Notwithstanding paragraph (a), if the conviction is for an offense described in s. 316.027 and the court finds that the offender caused victim injury, sentence points for victim injury may be assessed against the offender.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete line 19
and insert:
felony offenders; amending s. 921.0021, F.S.; revising the definition of "victim injury" by removing a prohibition on assessing certain victim injury sentence points for sexual misconduct by an employee of the Department of Corrections or a private correctional facility with an inmate or an offender supervised by the department; amending s. 944.151, F.S.; expanding

By the Committee on Criminal Justice

591-01637-15

20157020__

1 A bill to be entitled
 2 An act relating to corrections; amending s. 20.315,
 3 F.S.; revising the method of appointment for the
 4 Secretary of Corrections; creating the Florida
 5 Corrections Commission within the department;
 6 providing for membership and terms of appointment for
 7 commission members; prescribing duties and
 8 responsibilities of the commission; prohibiting the
 9 commission from entering into the department's
 10 operation; establishing meeting and notice
 11 requirements; requiring the commission to appoint an
 12 executive director; authorizing reimbursement of per
 13 diem and travel expenses for commission members;
 14 prohibiting certain conflicts of interest among
 15 commission members; providing for applicability;
 16 amending s. 216.136, F.S.; requiring the Criminal
 17 Justice Estimating Conference to develop projections
 18 of prison admissions and populations for elderly
 19 felony offenders; amending s. 944.151, F.S.; expanding
 20 the department's security review committee functions;
 21 ensuring physical inspections of state and private
 22 buildings and structures and prioritizing institutions
 23 for inspection that meet certain criteria; amending s.
 24 944.275, F.S.; prohibiting an inmate from receiving
 25 incentive gain-time credits for completing the
 26 requirements for and receiving a general educational
 27 development certificate or vocational certificate if
 28 the inmate was convicted of a specified offense on or
 29 after a specified date; amending s. 944.31, F.S.;

Page 1 of 39

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-01637-15

20157020__

30 requiring that a copy of a written memorandum of
 31 understanding for notification and investigation of
 32 certain events between the Department of Corrections
 33 and the Department of Law Enforcement be provided in a
 34 timely manner to the Governor, the President of the
 35 Senate, and the Speaker of the House of
 36 Representatives; requiring specialized training in
 37 certain circumstances; amending s. 944.331, F.S.;
 38 requiring the Department of Corrections to provide
 39 multiple private, internal avenues for the reporting
 40 by inmates of sexual abuse and sexual harassment;
 41 requiring the department, in consultation with the
 42 Correctional Medical Authority, to review inmate
 43 health care grievance procedures at each correctional
 44 institution and private correctional facility;
 45 requiring the department to review inmate grievance
 46 procedures at each correctional institution and
 47 private correctional facility; amending s. 944.35,
 48 F.S.; requiring that correctional officers have
 49 specialized training in the effective, nonforceful
 50 management of mentally ill inmates who may exhibit
 51 erratic behavior; requiring each institution to create
 52 and maintain a system to track the use of force
 53 episodes to determine if inmates need subsequent
 54 physical or mental health treatment; requiring annual
 55 reporting of use of force on the agency website;
 56 requiring that reports of physical force be signed
 57 under oath; prohibiting employees with notations
 58 regarding incidents involving the inappropriate use of

Page 2 of 39

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-01637-15

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59 force from being assigned to transitional care, crisis
 60 stabilization, or corrections mental health treatment
 61 facility housing; providing an exception; expanding
 62 applicability of a current felony offense to include
 63 certain employees of private providers and private
 64 correctional facilities; defining the term "neglect of
 65 an inmate"; providing for the determination of neglect
 66 of an inmate; creating criminal penalties for certain
 67 employees who neglect an inmate in specified
 68 circumstances; providing for anonymous reporting of
 69 inmate abuse directly to the department's Office of
 70 Inspector General; requiring that instruction on
 71 communication techniques related to crisis
 72 stabilization to avoid use of force be included in the
 73 correctional officer training program; directing the
 74 department to establish policies to protect inmates
 75 and employees from retaliation; requiring the
 76 department to establish policies relating to the use
 77 of chemical agents; amending s. 944.8041, F.S.;
 78 requiring the department to report health care costs
 79 for elderly inmates in its annual report; creating s.
 80 944.805, F.S.; providing legislative intent relating
 81 to specialized programs for veterans; requiring the
 82 department to measure recidivism and report its
 83 finding in that regard; amending s. 945.215, F.S.;
 84 requiring that specified proceeds and certain funds be
 85 deposited in the State Operated Institutions Inmate
 86 Welfare Trust Fund; providing that the State Operated
 87 Institutions Inmate Welfare Trust Fund is a trust held

591-01637-15

20157020__

88 by the Department of Corrections for the benefit and
 89 welfare of certain inmates; prohibiting deposits into
 90 the trust fund from exceeding \$5 million per fiscal
 91 year; requiring that deposits in excess of that amount
 92 be deposited into the General Revenue Fund; requiring
 93 that funds of the trust fund be used exclusively for
 94 specified purposes at correctional facilities operated
 95 by the department; requiring that funds from the trust
 96 fund only be expended pursuant to legislative
 97 appropriations; requiring the department to annually
 98 compile a report, at the statewide and institutional
 99 level documenting trust fund receipts and
 100 expenditures; requiring the report be submitted by
 101 September 1 for the previous fiscal year to specified
 102 offices of the Legislature and to the Executive Office
 103 of the Governor; prohibiting the purchase of weight-
 104 training equipment; providing a contingent effective
 105 date; amending s. 945.48, F.S.; specifying
 106 correctional officer staffing requirements pertaining
 107 to inmates housed in mental health treatment
 108 facilities; amending s. 945.6031, F.S.; changing the
 109 frequency of required surveys; amending s. 945.6033,
 110 F.S.; provides for damages in inmate health care
 111 contracts; amending s. 945.6034, F.S.; requiring the
 112 department to consider the needs of inmates over 50
 113 years of age and adopt health care standards for that
 114 population; creating s. 945.6039, F.S.; allowing an
 115 inmate's family, lawyer, and other interested parties
 116 to hire and pay for an independent medical evaluation;

591-01637-15

20157020__

117 specifying the purpose for outside evaluations;
 118 requiring the department to provide reasonable and
 119 timely access to the inmate; amending s. 947.149,
 120 F.S.; defining the term "elderly and infirm inmate";
 121 expanding eligibility for conditional medical release
 122 to include elderly and infirm inmates; amending ss.
 123 921.0021, 948.10, and 951.221. F.S.; conforming cross-
 124 references to changes made by the act; providing for
 125 applicability; reenacting ss. 435.04(2)(uu) and
 126 921.0022(3)(f), F.S., to incorporate the amendment
 127 made to s. 944.35, F.S., in references thereto;
 128 reenacting ss. 944.72(1), 945.21501(1), and 945.2151,
 129 F.S., to incorporate the amendment made to s. 945.215,
 130 F.S., in references thereto; reenacting s.
 131 945.6035(6), F.S., to incorporate the amendment made
 132 to s. 945.6031, F.S., in a reference thereto;
 133 providing effective dates.

135 Be It Enacted by the Legislature of the State of Florida:

137 Section 1. Subsection (3) of section 20.315, Florida
 138 Statutes, is amended, present subsections (4) through (12) of
 139 that section are redesignated as subsections (5) through (13),
 140 respectively, and a new subsection (4) is added to that section,
 141 to read:

142 20.315 Department of Corrections.—There is created a
 143 Department of Corrections.

144 (3) SECRETARY OF CORRECTIONS.—The head of the Department of
 145 Corrections is the Secretary of Corrections. The secretary shall

591-01637-15

20157020__

146 be ~~is~~ appointed by the Governor with the concurrence of three
 147 members of the Cabinet, subject to confirmation by the Senate,
 148 and shall serve at the pleasure of the Governor and Cabinet. The
 149 secretary is responsible for planning, coordinating, and
 150 managing the corrections system of the state. The secretary
 151 shall ensure that the programs and services of the department
 152 are administered in accordance with state and federal laws,
 153 rules, and regulations, with established program standards, and
 154 consistent with legislative intent. The secretary shall identify
 155 the need for and recommend funding for the secure and efficient
 156 operation of the state correctional system.

157 (a) The secretary shall appoint a deputy secretary. The
 158 deputy secretary shall be directly responsible to the secretary
 159 and shall serve at the pleasure of the secretary.

160 (b) The secretary shall appoint a general counsel and an
 161 inspector general, who are exempt from part II of chapter 110
 162 and are included in the Senior Management Service.

163 (c) The secretary may appoint assistant secretaries,
 164 directors, or other such persons that he or she deems are
 165 necessary to accomplish the mission and goals of the department,
 166 including, but not limited to, the following areas of program
 167 responsibility:

168 1. Security and institutional operations, which shall
 169 provide inmate work programs, offender programs, security
 170 administration, emergency operations response, and operational
 171 oversight of the regions.

172 2. Health services, which shall be headed by a physician
 173 licensed under chapter 458 or an osteopathic physician licensed
 174 under chapter 459, or a professionally trained health care

591-01637-15

20157020__

175 administrator with progressively responsible experience in
 176 health care administration. This individual shall be responsible
 177 for the delivery of health services to offenders within the
 178 system and shall have direct professional authority over such
 179 services.

180 3. Community corrections, which shall provide for
 181 coordination of community alternatives to incarceration and
 182 operational oversight of community corrections regions.

183 4. Administrative services, which shall provide budget and
 184 accounting services within the department, including the
 185 construction and maintenance of correctional institutions, human
 186 resource management, research, planning and evaluation, and
 187 technology.

188 5. Program, transition, and postrelease services, which
 189 shall provide for the direct management and supervision of all
 190 departmental programs, including the coordination and delivery
 191 of education and job training to the offenders in the custody of
 192 the department. In addition, this program shall provide for the
 193 direct management and supervision of all programs that furnish
 194 transition assistance to inmates who are or have recently been
 195 in the custody of the department, including the coordination,
 196 facilitation, and contract management of prerelease and
 197 postrelease transition services provided by governmental and
 198 private providers, including faith-based service groups.

199 (4) FLORIDA CORRECTIONS COMMISSION.—The Florida Corrections
 200 Commission is created. The commission is assigned to the
 201 Department of Corrections for administrative and fiscal
 202 accountability purposes, but it shall otherwise function
 203 independently of the control, supervision, and direction of the

591-01637-15

20157020__

204 department. The primary focus of the commission shall be on
 205 matters relating to corrections with an emphasis on the safe and
 206 effective operations of major correctional institutions.
 207 However, in instances in which the policies of other components
 208 of the criminal justice system affect corrections, the
 209 commission shall advise and make recommendations.

210 (a) The commission shall consist of nine members appointed
 211 by the Governor and subject to confirmation by the Senate. The
 212 initial members of the commission shall be appointed by October
 213 1, 2015. Members of the commission shall be appointed for terms
 214 of 4 years. However, to achieve staggered terms, four of the
 215 initial members shall be appointed to 2-year terms. Members must
 216 be appointed in a manner that ensures equitable representation
 217 of different geographic regions of this state. Each member of
 218 the commission must be a resident and a registered voter of this
 219 state. A commission member must represent the state as a whole
 220 and may not subordinate the needs of the state to those of a
 221 particular region. The commission's membership should, to the
 222 greatest extent possible, include a sheriff, state attorney,
 223 public defender, pastor or former prison chaplain, community
 224 leader, and business leader.

225 (b) The primary duties and responsibilities of the Florida
 226 Corrections Commission include:

227 1. Conducting investigations, internal affairs
 228 investigations, and criminal investigations.

229 2. Conducting announced and unannounced inspections of
 230 correctional facilities, including facilities operated by
 231 private contractors. The commission may enter any place where
 232 prisoners in this state are kept and shall be immediately

591-01637-15

20157020__

admitted to such place as they desire and may consult and confer with any prisoner privately and without molestation.

3. Identifying and monitoring high-risk and problematic correctional facilities, and reporting findings and recommendations relating to such facilities.

4. Continually monitoring on a statewide basis the incidence of inmate-on-inmate and officer-on-inmate violence and the introduction of contraband.

5. Submitting an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by each November 1, beginning in 2016.

6. Developing legislative, budgetary, and operational recommendations for correctional system improvement.

7. Reviewing the annual Legislative Budget Request of the department and making recommendations and comments on such budgetary request to the Governor.

8. Convening public hearings, for which the commission is authorized to issue subpoenas and take sworn testimony of witnesses.

9. Conducting confidential interviews with staff, officers, inmates, correctional health care professionals, citizens, volunteers, and public officials relating to the operations and conditions of correctional facilities.

10. Developing and implementing a set of standards and performance measures which establishes an accountability system that allows each correctional institution or facility to be individually measured annually for performance. The standards and measures shall be primarily focused on inmate achievement, inmate institutional adjustment, safe and secure prison

591-01637-15

20157020__

operations, officer safety, officer training, and inmate safety. The Florida Corrections Commission shall maintain an accountability system that tracks the department's progress toward meeting specified goals at both regional and institutional levels.

(c) The commission may not enter into the day-to-day operation of the department, but may conduct investigations.

(d) The commission shall hold a minimum of six regular meetings annually. A majority of the membership of the commission constitutes a quorum at any meeting of the commission. The chair shall be elected from the commission's membership. The chair shall direct that complete and accurate minutes be kept of all commission meetings, which shall be open for public inspection. Additional meetings may be held upon the written request of at least four members, with at least 1 week's notice of such meeting being given to all members and the public by the chair pursuant to chapter 120. Emergency meetings may be held without notice upon request of all members. Meetings of the commission shall be held at major correctional facilities around the state as determined by the chair.

(e) The commission shall appoint an executive director who shall serve under the direction, supervision, and control of the commission. The executive director, with consent of the commission, shall employ staff as necessary to adequately perform the functions of the commission.

(f) Commission members shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(g) Commission members may not have an immediate family

591-01637-15 20157020__

291 member who works in the department or any private institution or
 292 contractor under contract with the department and may not have
 293 any interest, direct or indirect, in a contract, franchise,
 294 privilege, or other benefit granted or awarded by the
 295 department, or any of its contractors or subcontracts, while
 296 serving as a member of the commission.

297 Section 2. The amendments made by this act to s. 20.315(3),
 298 Florida Statutes, do not apply to a Secretary of Corrections
 299 appointed before July 1, 2015.

300 Section 3. Paragraph (d) is added to subsection (5) of
 301 section 216.136, Florida Statutes, to read:

302 216.136 Consensus estimating conferences; duties and
 303 principals.—

304 (5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.—The Criminal
 305 Justice Estimating Conference shall:

306 (d) Develop projections of prison admissions and
 307 populations for elderly felony offenders.

308 Section 4. Section 944.151, Florida Statutes, is amended to
 309 read:

310 944.151 Safety and security of correctional institutions
 311 and facilities.—It is the intent of the Legislature that the
 312 Department of Corrections shall be responsible for the safe
 313 operation and security of the correctional institutions and
 314 facilities. The safe operation and security of the state's
 315 correctional institutions and facilities is critical to ensure
 316 public safety and the safety of department employees and
 317 offenders and to contain violent and chronic offenders until
 318 offenders are otherwise released from the department's custody
 319 pursuant to law. The Secretary of Corrections shall, at a

591-01637-15 20157020__

320 minimum:

321 (1) Appoint and designate select staff to the a safety and
 322 security review committee which shall, at a minimum, be composed
 323 of: the inspector general, the statewide security coordinator,
 324 the regional security coordinators, and three wardens and one
 325 correctional officer. The safety and security review committee
 326 shall evaluate new safety and security technology; review and
 327 discuss issues impacting correctional facilities; review and
 328 discuss current issues impacting correctional facilities; and
 329 review and discuss other issues as requested by management.†

330 ~~(a) Establish a periodic schedule for the physical~~
 331 ~~inspection of buildings and structures of each state and private~~
 332 ~~correctional institution to determine security deficiencies. In~~
 333 ~~scheduling the inspections, priority shall be given to older~~
 334 ~~institutions, institutions that house a large proportion of~~
 335 ~~violent offenders, and institutions that have experienced a~~
 336 ~~significant number of escapes or escape attempts in the past.~~

337 (2) Ensure that appropriate staff establishes a periodic
 338 schedule for the physical inspection of buildings and structures
 339 of each state and private correctional institution and facility
 340 to determine safety and security deficiencies. In scheduling the
 341 inspections, priority shall be given to older institutions,
 342 institutions that house a large proportion of violent offenders,
 343 institutions with a high level of inappropriate incidents of use
 344 of force on inmates, assaults on employees, or inmate sexual
 345 abuse, and institutions that have experienced a significant
 346 number of escapes or escape attempts in the past.

347 ~~(a) (b) Ensure that appropriate staff conducts~~ ~~Conduct~~ ~~or~~
 348 causes cause to be conducted announced and unannounced

591-01637-15

20157020__

comprehensive safety and security audits of all state and private correctional institutions. In conducting the security audits, priority shall be given to older institutions, institutions that house a large proportion of violent offenders, institutions with a high level of inappropriate incidents of use of force on inmates, assaults on employees, or inmate sexual abuse, and institutions that have experienced a history of escapes or escape attempts. At a minimum, the audit shall include an evaluation of the physical plant, which shall include the identification of blind spots or areas where staff or inmates may be isolated and the deployment of audio and video monitoring systems and other monitoring technologies in such areas, landscaping, fencing, security alarms and perimeter lighting, confinement, arsenal, key and lock, and entrance/exit and inmate classification and staffing policies. Each correctional institution shall be audited at least annually. ~~The secretary shall~~

(b) Report the general survey findings annually to the Governor and the Legislature.

(c) Ensure appropriate staff investigates and evaluates the usefulness and dependability of existing safety and security technology at the institutions and new technology and video monitoring systems available and make periodic written recommendations to the secretary on the discontinuation or purchase of various safety and security devices.

(d) Contract, if deemed necessary, with security personnel, consulting engineers, architects, or other safety and security experts the department deems necessary for safety and security consultant services.

591-01637-15

20157020__

(e) Ensure appropriate staff, in conjunction with the regional offices, establishes a periodic schedule for conducting announced and unannounced escape simulation drills.

(f) Adopt, enforce, and annually cause the evaluation of the emergency escape response procedures, which shall at a minimum include the immediate notification and inclusion of local and state law enforcement through mutual aid agreements.

(g) Ensure appropriate staff reviews staffing policies, classification, and practices as needed.

~~(3)(e)~~ Adopt and enforce minimum safety and security standards and policies that include, but are not limited to:

1. Random monitoring of outgoing telephone calls by inmates.

2. Maintenance of current photographs of all inmates.

3. Daily inmate counts at varied intervals.

4. Use of canine units, where appropriate.

5. Use of escape alarms and perimeter lighting.

6. Florida Crime Information Center/National Crime Information Center capabilities.

7. Employment background investigations.

~~(d)~~ Annually make written prioritized budget recommendations to the secretary that identify critical security deficiencies at major correctional institutions.

~~(e)~~ Investigate and evaluate the usefulness and dependability of existing security technology at the institutions and new technology available and make periodic written recommendations to the secretary on the discontinuation or purchase of various security devices.

~~(f)~~ Contract, if deemed necessary, with security personnel,

591-01637-15

20157020__

consulting engineers, architects, or other security experts the committee deems necessary for security audits and security consultant services.

~~(g) Establish a periodic schedule for conducting announced and unannounced escape simulation drills.~~

(4)(2) Direct staff to maintain and produce quarterly reports with accurate escape statistics. For the purposes of these reports, "escape" includes all possible types of escape, regardless of prosecution by the state attorney, and including offenders who walk away from nonsecure community facilities.

~~(3) Adopt, enforce, and annually evaluate the emergency escape response procedures, which shall at a minimum include the immediate notification and inclusion of local and state law enforcement through a mutual aid agreement.~~

(5)(4) Direct staff to submit in the annual legislative budget request a prioritized summary of critical safety and security deficiencies, and repair and renovation ~~security~~ needs.

Section 5. Paragraphs (d) and (e) of subsection (4) of section 944.275, Florida Statutes, are amended to read:

944.275 Gain-time.—

(4)

(d) Notwithstanding ~~paragraph (b) subparagraphs (b)1. and 2.,~~ the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate. This incentive gain-time award may be granted to reduce any sentence for an offense committed on or

591-01637-15

20157020__

after October 1, 1995. However, this gain-time may not be granted to reduce any sentence for an offense committed on or after October 1, 1995, if the inmate is, or has previously been, convicted of a violation of s. 794.011, s. 794.05, former s. 796.03, former s. 796.035, s. 800.04, s. 825.1025, s. 827.03, s. 827.071, s. 847.0133, s. 847.0135, s. 847.0137, s. 847.0138, s. 847.0145, or s. 985.701(1), or a forcible felony offense that is specified in s. 776.08, except burglary as specified in s. 810.02(4). An inmate subject to the 85 percent minimum service requirement pursuant to subparagraph (b)3. may not accumulate gain-time awards at any point when the tentative release date is the same as the 85 percent minimum service date of the sentence imposed. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section.

(e) Notwithstanding subparagraph (b)3. and paragraph (d), for sentences imposed for offenses committed on or after October 1, 2014, the department may not grant incentive gain-time if the offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

Section 6. Section 944.31, Florida Statutes, is amended to read:

944.31 Inspector general; inspectors; power and duties.—

(1) The inspector general shall be responsible for prison inspection and investigation, internal affairs investigations, and management reviews. The office of the inspector general shall be charged with the duty of inspecting the penal and correctional systems of the state. The office of the inspector general shall inspect each correctional institution or any place

591-01637-15

20157020__

in which state prisoners are housed, worked, or kept within the state, with reference to its physical conditions, cleanliness, sanitation, safety, and comfort; the quality and supply of all bedding; the quality, quantity, and diversity of food served and the manner in which it is served; the number and condition of the prisoners confined therein; and the general conditions of each institution. The office of inspector general shall see that all the rules and regulations issued by the department are strictly observed and followed by all persons connected with the correctional systems of the state. The office of the inspector general shall coordinate and supervise the work of inspectors throughout the state. The inspector general and inspectors may enter any place where prisoners in this state are kept and shall be immediately admitted to such place as they desire and may consult and confer with any prisoner privately and without molestation. The inspector general and inspectors shall be responsible for criminal and administrative investigation of matters relating to the Department of Corrections. The secretary may designate persons within the office of the inspector general as law enforcement officers to conduct any criminal investigation that occurs on property owned or leased by the department or involves matters over which the department has jurisdiction. A person designated as a law enforcement officer must be certified pursuant to s. 943.1395 and must have a minimum of 3 years' experience as an inspector in the inspector general's office or as a law enforcement officer.

(2) The department, after consultation with the Florida Corrections Commission, shall maintain a written memorandum of understanding with the Department of Law Enforcement for the

591-01637-15

20157020__

notification and investigation of mutually agreed-upon predicate events that shall include, but are not limited to, suspicious deaths and organized criminal activity. A copy of an active memorandum of understanding shall be provided in a timely manner to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(3) During investigations, the inspector general and inspectors may consult and confer with any prisoner or staff member privately and without molestation and persons designated as law enforcement officers under this section shall have the authority to arrest, with or without a warrant, any prisoner of or visitor to a state correctional institution for a violation of the criminal laws of the state involving an offense classified as a felony that occurs on property owned or leased by the department and may arrest offenders who have escaped or absconded from custody. Persons designated as law enforcement officers have the authority to arrest with or without a warrant a staff member of the department, including any contract employee, for a violation of the criminal laws of the state involving an offense classified as a felony under this chapter or chapter 893 on property owned or leased by the department. A person designated as a law enforcement officer under this section may make arrests of persons against whom arrest warrants have been issued, including arrests of offenders who have escaped or absconded from custody. The arrested person shall be surrendered without delay to the sheriff of the county in which the arrest is made, with a formal complaint subsequently made against her or him in accordance with law.

(4) The inspector general, and inspectors who conduct

591-01637-15 20157020
 523 sexual abuse investigations in confinement settings, shall
 524 receive specialized training in conducting such investigations.
 525 The department shall be responsible for providing the
 526 specialized training. Specialized training shall include, but
 527 need not be limited to, techniques for interviewing sexual abuse
 528 victims, proper use of Miranda and Garrity warnings, sexual
 529 abuse evidence collection in confinement settings, and the
 530 criteria and evidence required to substantiate a case for
 531 administrative action or prosecution.

532 Section 7. Section 944.331, Florida Statutes, is amended to
 533 read:

534 944.331 Inmate grievance procedure.-

535 (1) The department shall establish by rule an inmate
 536 grievance procedure, which ~~that~~ must conform to the Minimum
 537 Standards for Inmate Grievance Procedures as promulgated by the
 538 United States Department of Justice pursuant to 42 U.S.C. s.
 539 1997e. The department's office of general counsel shall oversee
 540 the grievance procedures established by the department.

541 (2) In establishing grievance procedures, the department
 542 shall provide multiple internal avenues for inmates to privately
 543 report sexual abuse and sexual harassment and any staff neglect
 544 of, or failure to perform, responsibilities which may have
 545 contributed to such incidents. The procedures must allow reports
 546 to be made in writing by third parties.

547 (3) The department, in consultation with the Correctional
 548 Medical Authority, shall review inmate health care grievance
 549 procedures at each correctional institution and private
 550 correctional facility to determine the procedural soundness and
 551 effectiveness of the current health care grievance process, to

591-01637-15 20157020
 552 identify employees prone to misconduct directly related to the
 553 delivery of health care services, and to identify life-
 554 threatening inmate health concerns. The review shall determine
 555 whether inmate health care grievances are being properly
 556 reported, transmitted, and processed; inmates are allowed
 557 writing utensils and paper; multiple channels of communication
 558 exist to report alleged abuse related to the delivery of health
 559 care services; and protocols are being implemented to protect an
 560 inmate who filed a grievance concerning the delivery of health
 561 care from retaliation for filing a complaint alleging staff
 562 misconduct.

563 (4) The department shall review inmate grievance procedures
 564 at each correctional institution and private correctional
 565 facility to determine the procedural soundness and effectiveness
 566 of the current grievance process, to identify employees prone to
 567 misconduct, and to identify life-threatening inmate safety
 568 concerns. The review shall determine whether inmate grievances
 569 are being properly reported, transmitted, and processed; inmates
 570 are allowed writing utensils and paper; multiple channels of
 571 communication exist to report alleged abuse; and protocols are
 572 being implemented to protect an inmate who filed a grievance
 573 from retaliation for filing a complaint alleging staff
 574 misconduct.

575 (5) Beginning October 1, 2015, the department in
 576 consultation with the Correctional Medical Authority shall
 577 annually report, and post to their respective websites, their
 578 joint findings. The authority shall document in the report its
 579 findings on the effectiveness of inmate health care grievance
 580 procedures; cite the number of health care grievances filed by

591-01637-15 20157020__

581 inmates, by institution and by region; specify the types of
 582 health care problems alleged by inmates; and summarize the
 583 actions taken by the department or the authority as a result of
 584 its investigation of inmate health care grievances.

585 Section 8. Section 944.35, Florida Statutes, is amended to
 586 read:

587 944.35 Authorized use of force; malicious battery and
 588 sexual misconduct prohibited; reporting required; penalties.—

589 (1) (a) An employee of the department is authorized to apply
 590 physical force upon an inmate only when and to the extent that
 591 it reasonably appears necessary:

592 1. To defend himself or herself or another against such
 593 other imminent use of unlawful force;

594 2. To prevent a person from escaping from a state
 595 correctional institution when the officer reasonably believes
 596 that person is lawfully detained in such institution;

597 3. To prevent damage to property;

598 4. To quell a disturbance;

599 5. To overcome physical resistance to a lawful command; or

600 6. To administer medical treatment only by or under the
 601 supervision of a physician or his or her designee and only:

602 a. When treatment is necessary to protect the health of
 603 other persons, as in the case of contagious or venereal
 604 diseases; or

605 b. When treatment is offered in satisfaction of a duty to
 606 protect the inmate against self-inflicted injury or death.

607
 608 As part of the correctional officer training program, the
 609 Criminal Justice Standards and Training Commission shall develop

591-01637-15 20157020__

610 a course specifically designed to explain the parameters of this
 611 subsection and to teach the proper methods and techniques in
 612 applying authorized physical force upon an inmate. Effective
 613 October 1, 2015, this course shall include specialized training
 614 for effectively managing in nonforceful ways mentally ill
 615 inmates who may exhibit erratic behavior.

616 (b) Following any use of force, a qualified health care
 617 provider shall examine any person physically involved to
 618 determine the extent of injury, if any, and shall prepare a
 619 report which shall include, but not be limited to, a statement
 620 of whether further examination by a physician is necessary. The
 621 identity of the qualified health care provider on the report
 622 shall be designated by using an employee identification number
 623 in lieu of a name and signature. Any noticeable physical injury
 624 shall be examined by a physician, and the physician shall
 625 prepare a report documenting the extent and probable cause of
 626 the injury and the treatment prescribed. Such report shall be
 627 completed within 5 working days of the incident and shall be
 628 submitted to the warden for appropriate investigation.

629 (c) Each institution shall create and maintain a system to
 630 track episodes involving the use of force to determine if
 631 inmates require subsequent physical or mental health treatment.

632 (d) No later than October 1 of each year, the department
 633 shall post on the agency website a report documenting incidents
 634 involving the use of force during the previous fiscal year. The
 635 report shall include, but not be limited to:

636 1. Descriptive statistics on the reason force was used and
 637 whether the use of force was deemed appropriate;

638 2. Multi-year statistics documenting annual trends in the

591-01637-15

20157020__

639 use of force;

640 3. Statistical information on the level of inmate or
 641 officer injury, including death, in incidents involving the use
 642 of force;

643 4. A breakdown, by institution, of statistics on use of
 644 force; and

645 5. Statistics on the number of employees who were
 646 disciplined or terminated because of their involvement in
 647 incidents involving the inappropriate use of force, based on
 648 notations of such incidents in their personnel files.

649 (2) Each employee of the department who either applies
 650 physical force or was responsible for making the decision to
 651 apply physical force upon an inmate or an offender supervised by
 652 the department in the community pursuant to this subsection
 653 shall prepare, date, and sign under oath an independent report
 654 within 1 working day of the incident. The report shall be
 655 delivered to the warden or the circuit administrator, who shall
 656 forward the report with all appropriate documentation to the
 657 office of the inspector general. The inspector general shall
 658 conduct a review and make recommendations regarding the
 659 appropriateness or inappropriateness of the use of force. If the
 660 inspector general finds that the use of force was appropriate,
 661 the employee's report, together with the inspector general's
 662 written determination of the appropriateness of the force used
 663 and the reasons therefor, shall be forwarded to the circuit
 664 administrator or warden upon completion of the review. If the
 665 inspector general finds that the use of force was inappropriate,
 666 the inspector general shall conduct a complete investigation
 667 into the incident and forward the findings of fact to the

591-01637-15

20157020__

668 appropriate regional director for further action. Copies of the
 669 employee's report and the inspector general's review shall be
 670 kept in the files of the inmate or the offender supervised by
 671 the department in the community. A notation of each incident
 672 involving use of force and the outcome based on the inspector
 673 general's evaluation shall be kept in the employee's file. An
 674 employee with two or more notations in the employee's file for
 675 inappropriate use of force incidents, as specified in s. 944.35,
 676 shall not be assigned to transitional care, crisis
 677 stabilization, or corrections mental health treatment facility
 678 inmate housing units as defined in Florida Administrative Code.
 679 However, an employee with two or more notations in the
 680 employee's file who remains free of inappropriate use of force
 681 incidents, for a significant period may be permitted to work in
 682 the transitional care, crisis stabilization, or corrections
 683 mental health treatment facility inmate housing units.

684 (3)(a)1. Any employee of the department, private provider,
 685 or private correctional facility who, with malicious intent,
 686 commits a battery upon an inmate or an offender supervised by
 687 the department in the community, commits a misdemeanor of the
 688 first degree, punishable as provided in s. 775.082 or s.
 689 775.083.

690 2. Any employee of the department, private provider, or
 691 private correctional facility who, with malicious intent,
 692 commits a battery or inflicts cruel or inhuman treatment by
 693 neglect or otherwise, and in so doing causes great bodily harm,
 694 permanent disability, or permanent disfigurement to an inmate or
 695 an offender supervised by the department in the community,
 696 commits a felony of the third degree, punishable as provided in

591-01637-15

20157020__

s. 775.082, s. 775.083, or s. 775.084.

(b) As used in this paragraph, the term "neglect of an inmate" means:

1. A failure or omission on the part of an employee of the department, private provider, or private correctional facility, to:

a. Provide an inmate with the care, supervision, and services necessary to maintain the inmate's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the inmate; or

b. Make a reasonable effort to protect an inmate from abuse, neglect, or exploitation by another person.

2. A determination of neglect of an inmate may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or psychological injury, or a substantial risk of death, to an inmate.

3. An employee of the department, private provider, or private correctional facility who willfully or by culpable negligence neglects an inmate and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the inmate commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. Any employee of the department, private provider, or private correctional facility who willfully or by culpable negligence neglects an elderly or disabled inmate without causing great bodily harm, permanent disability, or permanent

591-01637-15

20157020__

disfigurement to the inmate commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)(b) 1. As used in this paragraph, the term "sexual misconduct" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.

2. Any employee of the department or a private correctional facility as defined in s. 944.710 who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

4. This paragraph does not apply to any employee of the department or any employee of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee who has no knowledge, and would have no reason to believe, that the person with whom the employee has engaged in sexual misconduct is an inmate or an offender under community supervision of the department.

(d)(e) Notwithstanding prosecution, any violation of the

591-01637-15

20157020__

provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. 110.227 for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

~~(e)~~~~(d)~~ Each employee who witnesses, or has reasonable cause to suspect, that an inmate or an offender under the supervision of the department in the community has been unlawfully abused or is the subject of sexual misconduct pursuant to this subsection shall immediately prepare, date, and sign an independent report specifically describing the nature of the force used or the nature of the sexual misconduct, the location and time of the incident, and the persons involved. The report shall be delivered to the inspector general of the department with a copy to be delivered to the warden of the institution or the regional administrator. The inspector general shall immediately conduct an appropriate investigation, and, if probable cause is determined that a violation of this subsection has occurred, the respective state attorney in the circuit in which the incident occurred shall be notified.

(f) If an employee of the department, private provider, or private correctional facility who witnesses unlawful abuse or neglect or has reasonable cause to suspect that an inmate has been unlawfully abused or neglected, as the term "neglected" is defined in paragraph (b), fears retaliation by coworkers or supervisors if he or she submits a report as provided in paragraph (e), the employee may anonymously and confidentially report the inmate abuse or neglect directly to the department's Office of Inspector General.

591-01637-15

20157020__

(4) (a) Any employee required to report pursuant to this section who knowingly or willfully fails to do so, or who knowingly or willfully prevents another person from doing so, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who knowingly or willfully submits inaccurate, incomplete, or untruthful information with regard to reports required in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Any person who knowingly or willfully coerces or threatens any other person with the intent to alter either testimony or a written report regarding an incident where force was used or an incident of sexual misconduct commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

As part of the correctional officer training program, the Criminal Justice Standards and Training Commission shall develop course materials for inclusion in the appropriate required course specifically designed to explain the parameters of this subsection, teach communication techniques related to crisis stabilization to avoid the use of force, and ~~to~~ teach sexual assault identification and prevention methods and techniques.

(5) The department shall establish a policy to protect from retaliation inmates and employees who report physical or sexual abuse. This policy shall establish multiple protective measures for both inmates and employees relating to the reporting of abuse as well as designate a method of monitoring follow up.

591-01637-15

20157020

(6) The department shall establish a usage and inventory policy to track, by institution, the use of chemical agents and the disposal of expired, used, or damaged canisters of chemical agents. The policy shall include, but not be limited to, a requirement that a numbered seal be affixed to each chemical agent canister in such a manner that the canister cannot be removed from the carrier without breaking the seal. All canisters in the carriers will be checked out at the beginning of each shift and checked back in at the end of the shift. The shift supervisor should be charged with verifying the condition of the numbered seals and periodically weighing random canisters to insure that they have not been used without the required documentation.

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

944.8041 Elderly offenders; annual review.—

(1) For the purpose of providing information to the Legislature on elderly offenders within the correctional system, the department and the Correctional Medical Authority shall each submit annually a report on the status and treatment of elderly offenders in the state-administered and private state correctional systems and the department's geriatric facilities and dorms. In order to adequately prepare the reports, the department and the Department of Management Services shall grant access to the Correctional Medical Authority that includes access to the facilities, offenders, and any information the agencies require to complete their reports. The review shall also include an examination of promising geriatric policies, practices, and programs currently implemented in other

591-01637-15

20157020

correctional systems within the United States. The reports, with specific findings and recommendations for implementation, shall be submitted to the President of the Senate and the Speaker of the House of Representatives on or before December 31 of each year.

(2) The department, in producing the annual report required under s. 20.315, shall report the cost of health care provided to elderly inmates. The report shall include, but need not be limited to, the average cost per year to incarcerate an elderly inmate and the types of health care delivered to elderly inmates which result in the highest expenditures.

Section 10. Section 944.805, Florida Statutes, is created to read:

944.805 Veterans programs in state and private correctional institutions.—

(1) The Legislature finds and declares that specialized programs for veterans offered in state and private correctional institutions have the potential to facilitate inmate institutional adjustment, help inmates assume personal responsibility, and ease community reentry through the availability of expanded community resources. For the purposes of this section, the term "veteran" has the same meaning as it is defined in s. 1.01(14).

(2) It is the intent of the Legislature that the department expand the use of specialized dormitories for veterans. It is also the intent of the Legislature that veterans housed in state and private correctional institutions be provided special assistance before their release by identifying benefits and services available in the community where the veteran plans to

591-01637-15

20157020__

871 reside.

872 (3) The department shall measure recidivism rates for
 873 veterans who have participated in specialized dormitories and
 874 for veterans who have received special assistance in community
 875 reentry. The findings shall be included in the annual report
 876 required under s. 20.315.

877 Section 11. Effective upon SB 540 or similar legislation
 878 creating the "State Operated Institutions Inmate Welfare Trust
 879 Fund" being adopted in the 2015 Regular Session or an extension
 880 thereof and becoming law, subsection (1) of section 945.215,
 881 Florida Statutes, is amended, present subsections (2) and (3)
 882 are redesignated as subsections (3) and (4), respectively, and a
 883 new subsection (2) is added to that section to read:

884 945.215 Inmate welfare and employee benefit trust funds.—

885 (1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS; STATE
 886 OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.—

887 (a) ~~The From the~~ net proceeds from operating inmate
 888 canteens, vending machines used primarily by inmates and
 889 visitors, hobby shops, and other such facilities must be
 890 deposited in the State Operated Institutions Inmate Welfare
 891 Trust Fund or, as set forth in this section, in the General
 892 Revenue Fund; however, funds necessary to purchase items for
 893 resale at inmate canteens and vending machines must be deposited
 894 into local bank accounts designated by the department.

895 (b) All proceeds from contracted telephone commissions must
 896 be deposited in the State Operated Institutions Inmate Welfare
 897 Trust Fund or, as set forth in this section, in the General
 898 Revenue Fund. The department shall develop and update, as
 899 necessary, administrative procedures to verify that:

591-01637-15

20157020__

900 1. Contracted telephone companies accurately record and
 901 report all telephone calls made by inmates incarcerated in
 902 correctional facilities under the department's jurisdiction;

903 2. Persons who accept collect calls from inmates are
 904 charged the contracted rate; and

905 3. The department receives the contracted telephone
 906 commissions.

907 (c) Any funds that may be assigned by inmates or donated to
 908 the department by the general public or an inmate service
 909 organization must be deposited in the State Operated
 910 Institutions Inmate Welfare Trust Fund or, as set forth in this
 911 section, in the General Revenue Fund; however, the department
 912 shall not accept any donation from, or on behalf of, any
 913 individual inmate.

914 (d) All proceeds from the following sources must be
 915 deposited in the State Operated Institutions Inmate Welfare
 916 Trust Fund or, as set forth in this section, in the General
 917 Revenue Fund:

918 1. The confiscation and liquidation of any contraband found
 919 upon, or in the possession of, any inmate;

920 2. Disciplinary fines imposed against inmates;

921 3. Forfeitures of inmate earnings; and

922 4. Unexpended balances in individual inmate trust fund
 923 accounts of less than \$1.

924 (e) Items for resale at inmate canteens and vending
 925 machines maintained at the correctional facilities shall be
 926 priced comparatively with like items for retail sale at fair
 927 market prices.

928 (f) Notwithstanding any other provision of law, inmates

591-01637-15 20157020__

929 with sufficient balances in their individual inmate bank trust
930 fund accounts, after all debts against the account are
931 satisfied, shall be allowed to request a weekly draw of up to an
932 amount set by the Secretary of Corrections, not to exceed \$100,
933 to be expended for personal use on canteen and vending machine
934 items.

935 (2) (a) The State Operated Institutions Inmate Welfare Trust
936 Fund constitutes a trust held by the department for the benefit
937 and welfare of inmates incarcerated in correctional facilities
938 operated directly by the department.

939 (b) Deposits into the State Operated Institutions Inmate
940 Welfare Trust Fund shall not exceed a total of \$5 million in any
941 fiscal year. Any proceeds or funds that would cause deposits
942 into the State Operated Institutions Inmate Welfare Trust Fund
943 to exceed this restriction shall be deposited into the General
944 Revenue Fund.

945 (c) Funds in the State Operated Institutions Inmate Welfare
946 Trust Fund shall be used exclusively for the following purposes
947 at correctional facilities operated by the department:

948 1. To provide literacy programs, vocational training
949 programs, and educational programs;

950 2. To operate inmate chapels, faith-based programs,
951 visiting pavilions, visiting services and programs, family
952 services and programs, and libraries;

953 3. To provide inmate substance abuse treatment programs and
954 transition and life skills training programs;

955 4. To provide for the purchase, rental, maintenance or
956 repair of electronic or audio visual equipment used by inmates;
957 or

591-01637-15 20157020__

958 5. To provide for the purchase, rental, maintenance or
959 repair of recreation and wellness equipment.

960 6. To provide for the purchase, rental, maintenance, or
961 repair of bicycles used by inmates traveling to and from
962 employment in the work-release program authorized in s.
963 945.091(1)(b).

964 (d) Funds in the State Operated Institutions Inmate Welfare
965 Trust Fund shall be expended only pursuant to legislative
966 appropriation.

967 (e) The department shall annually compile a report that
968 specifically documents State Operated Institutions Inmate
969 Welfare Trust Fund receipts and expenditures. This report shall
970 be compiled at both the statewide and institutional levels. The
971 department must submit this report for the previous fiscal year
972 by September 1 of each year to the chairs of the appropriate
973 substantive and fiscal committees of the Senate and the House of
974 Representatives and to the Executive Office of the Governor.

975 (f) Funds in the State Operated Institutions Inmate Welfare
976 Trust Fund or any other fund may not be used to purchase weight-
977 training equipment.

978 Section 12. Subsection (7) is added to section 945.48,
979 Florida Statutes, to read:

980 945.48 Rights of inmates provided mental health treatment;
981 procedure for involuntary treatment; correctional officer
982 staffing requirements.-

983 (7) CORRECTIONAL OFFICER STAFFING.-A correctional officer
984 who has close contact with inmates housed in a mental health
985 treatment facility shall annually complete training in crisis
986 intervention. An employee with two or more notations in the

591-01637-15 20157020__

987 employee's file for inappropriate use of force incidents, as
 988 specified in s. 944.35, may not be assigned to transitional
 989 care, crisis stabilization, or corrections mental health
 990 treatment facility inmate housing units as defined in Florida
 991 Administrative Code. However, an employee with two or more
 992 notations in the employee's file who remains free of
 993 inappropriate use of force incidents, for a significant period
 994 may be permitted to work in the transitional care, crisis
 995 stabilization, or corrections mental health treatment facility
 996 inmate housing units.

997 Section 13. Subsection (2) of section 945.6031, Florida
 998 Statutes, is amended to read:

999 945.6031 Required reports and surveys.—

1000 (2) The authority shall conduct surveys of the physical and
 1001 mental health care system at each correctional institution at
 1002 least every 18 months ~~triennially~~ and shall report the survey
 1003 findings for each institution to the Secretary of Corrections.

1004 Section 14. Section 945.6033, Florida Statutes, is amended
 1005 to read:

1006 945.6033 Continuing contracts with health care providers.—

1007 (1) The Department of Corrections may enter into continuing
 1008 contracts with licensed health care providers, including
 1009 hospitals and health maintenance organizations, for the
 1010 provision of inmate health care services which the department is
 1011 unable to provide in its facilities.

1012 (2) The Department of Corrections, in negotiating contracts
 1013 for the delivery of inmate health care, shall only enter into
 1014 contracts which contain damage provisions.

1015 Section 15. Subsection (1) of section 945.6034, Florida

591-01637-15 20157020__

1016 Statutes, is amended to read:
 1017 945.6034 Minimum health care standards.—
 1018 (1) The Assistant Secretary for Health Services is
 1019 responsible for developing a comprehensive health care delivery
 1020 system and promulgating all department health care standards.
 1021 Such health care standards shall include, but are not limited
 1022 to, rules relating to the management structure of the health
 1023 care system and the provision of health care services to
 1024 inmates, health care policies, health care plans, quality
 1025 management systems and procedures, health service bulletins, and
 1026 treatment protocols. In establishing standards of care, the
 1027 department shall examine and consider the needs of inmates over
 1028 50 years of age and adopt health care standards unique to this
 1029 population.

1030 Section 16. Section 945.6039, Florida Statutes, is created
 1031 to read:

1032 945.6039 Independent Medical Evaluations and Examinations.—

1033 (1) The department shall promulgate rules and permit an
 1034 inmate's family member, lawyer, or interested party to hire and
 1035 pay for an independent medical evaluation or examination by a
 1036 medical professional of an incarcerated inmate. The results of
 1037 the medical evaluation or examination shall be provided to the
 1038 department and to the Commission on Offender Review. The purpose
 1039 of these outside evaluations is to assist in the delivery of
 1040 medical care to the inmate and to assist the Commission on
 1041 Offender Review in considering an inmate for conditional medical
 1042 release. Inmates at all department facilities and the contracted
 1043 private correctional facilities are eligible for consideration
 1044 to arrange for these medical evaluations. The department's

591-01637-15

20157020__

contracted private health care providers may also provide such medical evaluations. The department, the private correctional facilities, and private health care providers shall provide reasonable and timely access to the inmate once a family member, lawyer, or interested party provides a written request for access.

Section 17. Present paragraphs (a) and (b) of subsection (1) of section 947.149, Florida Statutes, are redesignated as paragraphs (b) and (c), respectively, and a new paragraph (a) is added to that subsection, to read:

947.149 Conditional medical release.—

(1) The commission shall, in conjunction with the department, establish the conditional medical release program. An inmate is eligible for consideration for release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(a) "Elderly and infirm inmate," which means an inmate who has no current or prior convictions for capital or first degree felonies, who has no current or prior convictions for sexual offenses or offenses against children, who is over 70 years of age, and who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate infirm or physically impaired to the extent that the inmate does not constitute a danger to himself or herself or others.

Section 18. Paragraph (c) of subsection (7) of section 921.0021, Florida Statutes, is amended to read:

921.0021 Definitions.—As used in this chapter, for any

591-01637-15

20157020__

felony offense, except any capital felony, committed on or after October 1, 1998, the term:

(7)

(c) The sentence points provided under s. 921.0024 for sexual contact or sexual penetration may not be assessed for a violation of s. 944.35(3)(c)2. ~~s. 944.35(3)(b)2.~~

Section 19. Subsection (5) of section 948.10, Florida Statutes, is amended to read:

948.10 Community control programs.—

(5) In its annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives under s. 20.315(6) ~~s. 20.315(5)~~, the department shall include a detailed analysis of the community control program and the department's specific efforts to protect the public from offenders placed on community control. The analysis must include, but need not be limited to, specific information on the department's ability to meet minimum officer-to-offender contact standards, the number of crimes committed by offenders on community control, and the level of community supervision provided.

Section 20. Subsection (1) of section 951.221, Florida Statutes, is amended to read:

951.221 Sexual misconduct between detention facility employees and inmates; penalties.—

(1) Any employee of a county or municipal detention facility or of a private detention facility under contract with a county commission who engages in sexual misconduct, as defined in s. 944.35(3)(c)1. ~~s. 944.35(3)(b)1.~~, with an inmate or an offender supervised by the facility without committing the crime

591-01637-15

20157020__

of sexual battery commits a felony of the third degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
The consent of an inmate to any act of sexual misconduct may not
be raised as a defense to prosecution under this section.

Section 21. Paragraph (uu) of subsection (2) of s. 435.04
and paragraph (f) of subsection (3) of s. 921.0022, Florida
Statutes, are reenacted for the purpose of incorporating the
amendment made by this act to s. 944.35, Florida Statutes, in
references thereto.

Section 22. Subsection (1) of s. 944.72, subsection (1) of
s. 945.21501, and s. 945.2151, Florida Statutes, are reenacted
for the purpose of incorporating the amendment made by this act
to s. 945.215, Florida Statutes, in references thereto.

Section 23. Subsection (6) of s. 945.6035, Florida Statutes,
is reenacted for the purpose of incorporating the amendment made
by this act to s. 945.6031, Florida Statutes, in a reference
thereto.

Section 24. Except as otherwise provided in this act, this
act shall take effect July 1, 2015.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.4.15
Meeting Date

7020
Bill Number (if applicable)

Topic Dept. of Corrections

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title CEO

Address 204 S. Monroe St., Ste. 201

Phone 577-3032

Street Tall State FL Zip 32301

Email barney@smartjusticealliance.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Fla. Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/2015
Meeting Date

7020
Bill Number (if applicable)

Topic DOC

Amendment Barcode (if applicable)

Name HONORABLE JUANNE HOLT

Job Title P.D. 13th Circuit

Address 100 TUNES ST

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL. PUBLIC DEFENDER ASSOC. INC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: SB 540

INTRODUCER: Senator Evers

SUBJECT: State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections

DATE: March 4, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Cannon	CJ	Favorable
2. Clodfelter	Sadberry	ACJ	Favorable
3. _____	_____	AP	_____

I. Summary:

SB 540 creates the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) within the Department of Corrections (department). The purpose of the new Trust Fund is for the benefit and welfare of inmates incarcerated in state-operated correctional facilities. Any balance in the Trust Fund at the end of a fiscal year must remain in the Trust Fund and be available for carrying out the purposes of the fund. In accordance with s. 19(f)(2), Art. III of the State Constitution, the Trust Fund will be terminated on July 1, 2019, unless terminated sooner or renewed.

This bill does not have a fiscal impact in and of itself. However, SB 7020 includes language providing that the new Trust Fund will be funded with revenues from inmate canteens, inmate telephone commissions, and certain other revenue sources that are currently deposited in the General Revenue Fund. That bill limits deposits into the Trust Fund to five million dollars in any fiscal year, with revenues above five million dollars going into the General Revenue Fund.

In Fiscal Year 2012-2013, \$36,612,958 was collected and deposited into the General Revenue Fund from inmate canteens, inmate telephone commissions and certain other revenue sources. In Fiscal Year 2013-2014, \$37,383,280 was collected and deposited in the General Revenue Fund from these same sources.

The bill is contingent upon SB 7020 becoming law and will be effective upon the same date.

II. Present Situation:

Inmate Welfare Trust Funds for Public Correctional Facilities

From 1979 until 2003, s. 945.215, F.S., provided for a trust fund that allowed the department to use revenue from the purchase of inmate canteen items and from inmate telephone calls to fund

chapels, education, and wellness programs at publically operated correctional facilities. The source of the revenue was from family and friends of the inmate. Chapter 2003-179, Laws of Florida, eliminated the former trust fund for public correctional facilities and required the revenue from inmate canteens and telephone usage to go directly into the General Revenue Fund.

According to a January 15, 2015, Auditor General audit of the department's canteen operations (which are outsourced to Keefe Commissary Network, LLC), from July 2012 through February 2014 sales in department institution canteens totaled approximately \$133.31 million and catalog sales totaled \$868,474. In addition, the department received MP3 music program commissions from Keefe totaling \$940,412 relating to MP3 music program sales of approximately \$5.99 million. The department's contract with Keefe expires March 31, 2015.

Canteens operate on a cashless system. Inmates use photo identification cards like bank debit cards. Inmates may make purchases on a weekly basis not to exceed \$100.¹ MP3 sales and catalog items do not count toward the purchase limit.

The chart below shows the department's revenue collections from funding sources for the Inmate Welfare Trust Fund before s. 945.215, F.S., was amended to direct those revenues to the General Revenue Fund:

REVENUE COLLECTION SUMMARY PREVIOUS INMATE WELFARE TRUST FUND SOURCES FY 2009-2010 – FY 2013-2014						
Description	Authorizing Statute	Fiscal Year 2009-2010	Fiscal Year 2010-2011	Fiscal Year 2011-2012	Fiscal Year 2012-2013	Fiscal Year 2013-2014
General Revenue Unallocated (GRU) Collections (funding sources for previous IWTF):						
Canteen Commissions ²	s. 945.215(1)(a) FS	31,382,837	31,162,387	30,970,697	30,907,621	31,027,325
Telephone Commissions	s. 945.215(1)(b) FS	5,294,749	5,205,804	5,156,269	5,334,549	6,142,399
Vending Commissions	s. 945.215(1)(a) FS	250,234	343,096	357,371	369,591	212,345
ITF Balances <\$1.00	s. 944.516(5) FS	1,367	1,194	1,219	1,197	1,211
Total GR Deposits		\$36,930,554	\$36,712,481	\$36,485,556	\$36,612,958	\$37,383,280

Inmate Welfare Trust Fund for Privately Operated Institutions

An Inmate Welfare Trust Fund for private correctional facilities created in 1998 continues to operate.³ This trust fund is for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the Department of Management Services (DMS). Net proceeds from inmate canteens, vending machines used primarily by inmates, telephone commissions, and other similar sources of proceeds are deposited in the fund. The DMS compiles an annual report documenting the receipts and expenditures at each private facility. For Fiscal Year 2013-2014, the DMS reported total revenues of \$3,252,201.41. The total expenditures for vocational programs, canine detection training programs, and community service programs was \$1,014,038.88.

¹ Rule 33-203.101, F.A.C.

² Canteen commissions include MP3 music program sales.

³ s. 944.72, F.S.

III. Effect of Proposed Changes:

The bill creates the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections. The language of the bill closely mirrors the language that was in s. 945.215, F.S., when the former trust fund was originally created. The purpose of the new Trust Fund is for the benefit and welfare of inmates incarcerated in state-operated correctional facilities. Any balance in the trust fund at the end of a fiscal year must remain in the Trust Fund and be available for carrying out the purposes of the fund. The new Trust Fund will terminate on July 1, 2019, unless terminated sooner.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 540 does not have a fiscal impact in and of itself. However, Senate Bill 7020 includes language providing that the Trust Fund will be funded with revenues from inmate canteens, inmate telephone commissions, and certain other revenue sources that are currently deposited in the General Revenue Fund. That bill limits deposits into the Trust Fund to five million dollars in any fiscal year, with revenues above five million dollars going into the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 944.73 of the Florida Statutes:

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

By Senator Evers

2-00758-15

2015540__

A bill to be entitled

An act relating to trust funds; creating s. 944.73, F.S.; creating the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections; providing a purpose; requiring that any balance remaining in the trust fund at the end of the fiscal year remain in the trust fund; providing an effective date.

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

Section 1. Section 944.73, Florida Statutes, is created to read:

944.73 State-Operated Institutions Inmate Welfare Trust Fund.—

(1) The State-Operated Institutions Inmate Welfare Trust Fund is created within the department. The purpose of the trust fund is the benefit and welfare of inmates incarcerated in state-operated correctional facilities.

(2) Moneys shall be deposited in and expenditures made from the trust fund as provided in s. 945.215.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of a fiscal year must remain in the trust fund and be available for carrying out the purposes of the trust fund.

(4) In accordance with s. 19(f)(2), Art. III of the State Constitution, the State-Operated Institutions Inmate Welfare Trust Fund shall, unless terminated sooner, be terminated on July 1, 2019. Before its scheduled termination, the trust fund

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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shall be reviewed as provided in s. 215.3206(1) and (2).

Section 2. This act shall take effect on the same date that SB 7020 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes law.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Chair Senator Negron
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

I respectfully request that **SB#540**, relating to State Operated Institutions Inmate Welfare Trust Fund, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda

This bill has now passed the Criminal Justice Committee.

A handwritten signature in cursive script that reads "Greg Evers".

Senator Greg Evers
Florida Senate, District 2

No
document
available.

CourtSmart Tag Report

Room: LL 37

Case:

Caption: Senate Criminal & Civil Justice Appropriations Subcommittee (Part B)

Type:

Judge:

Started: 3/4/2015 10:09:37 AM

Ends: 3/4/2015 11:26:09 AM

Length: 01:16:33

10:09:41 AM Meeting called to order at 10:00 a.m. - in informal recess until quorum reached.
10:10:05 AM Meeting called to order.
10:10:30 AM Senator Evers recognized to present SB 7020, Corrections.
10:11:18 AM Senator Evers explains the bill.
10:16:32 AM Senator Joyner recognized for questioning.
10:17:03 AM Senator Evers responds to Senator Joyner's question regarding master list for use of force incidents.
10:17:29 AM Senator Evers says we can make more clear.
10:17:38 AM Senator Joyner asks follow up question.
10:17:57 AM Senator Evers responds.
10:18:14 AM Senator Joyner in follow up. Wants to know why each facility could create a form...
10:18:34 AM Senator Evers says there will be uniformity in the form, but each facility will document each use of force incident.
10:18:55 AM Senator Joyner in follow up regarding annual report for violent incidents.
10:19:30 AM What's the mechanism for reports in the interim?
10:19:40 AM Senator Evers replies Commission would review these during the year.
10:20:27 AM Senator Soto recognized.
10:20:32 AM Senator Soto speaks of "whistle blower" incident in his district.
10:21:59 AM This bill does not go far enough to protect whistle blower individuals.
10:22:22 AM Needs to be expanded. Hopeful new secretary will address these issues.
10:23:31 AM Senator Soto asks follow up.
10:24:02 AM How would this bill protect female correctional officers in protecting against advances.
10:24:23 AM Senator Evers says bill doesn't go far enough.
10:24:32 AM Senator Joyner recognized.
10:25:03 AM Senator Joyner speaks to mental health training issue.
10:25:35 AM Senator Evers responds. Doesn't believe the bill goes far enough and will accept amendments to address concerns.
10:26:24 AM Senator Joyner responds.
10:26:39 AM Senator Joyner speaks to section 7 of the bill.
10:27:14 AM Who determines length of time and factors of "significant period" and why would the officers be allowed to work with inmates?
10:27:47 AM if they pose a threat?
10:27:52 AM Senator Evers responds.
10:28:09 AM DOC can set up a rule vs legislation to address these concerns.
10:28:25 AM Senator Joyner responds.
10:28:45 AM "Adverse incidents" have certain limits of time to be reported. Can we consider some period of time?
10:29:26 AM Chairman Negrón responds to use of force issue.
10:31:16 AM Senator Evers responds.
10:32:33 AM Chairman Negrón responds.
10:32:52 AM Chairman Negrón speaks to third degree felony issue in bill.
10:34:16 AM Lines 698 - 728.
10:35:38 AM We need to be cognizant of the fact when you punish people for not doing something, you have to be careful.
10:35:57 AM Senator Evers recognized and explains the text came from elderly abuse statute.
10:36:21 AM Chairman Negrón responds.
10:37:15 AM It's hard to regulate common sense through statute - Senator Evers.
10:38:04 AM Senator Negrón responds.
10:38:39 AM Senator Bradley recognized.
10:39:09 AM Senator Bradley speaks to correctional officers who handle Florida State Prison inmates.
10:40:33 AM It's not apples to apples in the system.
10:41:30 AM Senator Bradley speaks to criminalization issue.
10:43:02 AM Senator Joyner recognized.
10:45:31 AM Senator Evers responds that DOC has rule and guidelines set up for incident reports. Reviewed by DOC

IG office daily.

10:46:08 AM Senator Joyner asks follow up.
10:46:19 AM What can be done by rule versus legislation.
10:46:27 AM Senator Evers says he was trying to add direction versus rule.
10:47:04 AM Senator Joyner responds.
10:47:44 AM Senator Evers responds.
10:47:48 AM Senator Joyner will follow up with Senator Evers.
10:49:05 AM Senator Evers responds to medical care issue.
10:49:34 AM Would like to make the burden be on the correctional officer for reporting medical need if not being addressed.
10:50:55 AM Senator Evers recognized to present amendments.
10:51:05 AM Senator Evers presents amendment 341086.
10:51:58 AM Senator Bradley recognized in question on the amendment.
10:52:21 AM Speaks to dual officer holder as part of the job.
10:53:24 AM Senator Evers responds.
10:53:37 AM Senator Joyner recognized.
10:54:05 AM Any thought to include a former criminal in order to offer "insider" information in support of the Commission.
10:54:45 AM Senator Evers responds.
10:54:54 AM Senator Joyner responds.
10:56:16 AM Senator Evers responds.
10:56:28 AM Senator Bradley recognized.
10:57:18 AM Senator Evers responds to 3-3-3 (House-Senate-Governor) appointment for commission.
10:58:16 AM Senator Bradley responds.
10:58:25 AM Senator Evers states this is "our" bill, not "my" bill.
10:58:39 AM Senator Joyner recognized.
10:59:16 AM Senator Evers responds.
11:00:00 AM Debate on the amendment?
11:00:04 AM Amendment adopted without objection.
11:00:15 AM Senator Evers recognized to present amendment 707376.
11:00:39 AM Senator Joyner recognized in question on the amendment.
11:00:51 AM Senator Evers responds.
11:00:56 AM Senator Joyner asks follow up.
11:01:04 AM Senator Evers responds.
11:01:23 AM Chairman Negrón responds.
11:01:56 AM Without objection amendment adopted.
11:02:22 AM Barney Bishop, Smart Justice Alliance, recognized.
11:02:50 AM Mr. Bishop speaks to six issues of concern for Smart Justice Alliance.
11:05:27 AM Senator Bradley recognized.
11:05:36 AM Is the OIG effective in rooting out bad actors at DOC?
11:05:48 AM Mr. Bishop responds.
11:06:10 AM Senator Bradley repeats his question.
11:06:27 AM Mr. Bishop responds.
11:06:59 AM Julianne Holt, Florida Public Defenders Association, Inc., recognized.
11:07:08 AM Florida Public Defenders Association waives in support.
11:07:13 AM Bill open for debate.
11:07:16 AM Senator Bradley recognized for debate.
11:09:29 AM Senator Joyner recognized in debate.
11:14:13 AM Senator Soto recognized in debate.
11:16:29 AM Chairman Negrón speaks to Senator Evers and thanks him for his efforts in looking at reforms and his graciousness.
11:18:06 AM Senator Evers recognized to close on the bill as amended.
11:18:42 AM Senator Evers speaks to "getting outside the office" and looking at the issue.
11:21:18 AM Motion to allow staff to make technical changes - without objection. SB 7020 passes favorably,
11:21:55 AM Senator Evers recognized to present SB 540.
11:22:04 AM Senator Evers presents SB 540.
11:22:47 AM Senator Joyner recognized.
11:22:54 AM Senator Evers responds.
11:23:00 AM Senator Joyner asks follow up regarding cap amount.
11:23:16 AM Senator Evers responds.
11:24:34 AM Senator Evers recognized to close.
11:25:00 AM Senator Evers recognized to close.

11:25:03 AM SB 540 passes favorably.
11:25:12 AM Senator Evers moves we rise.
11:25:14 AM Meeting adjourned.