

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 1390

INTRODUCER: Budget Subcommittee on Criminal and Civil Justice Appropriations and Senator Dockery

SUBJECT: Supervised Reentry Programs for Inmates

DATE: April 18, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable
2.	Sneed	Sadberry	BJA	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill expands the scope of the current community work release program administered by the Department of Corrections (department) to create a supervised reentry program. It would allow the department to place an inmate in paid employment, or in suitable programs approved by the department, while he or she lives in a department-approved residence within the community. Eligible inmates may enter this supervised reentry program within the last 14 months of confinement.

This bill substantially amends section 945.091 of the Florida Statutes.

II. Present Situation:

Extension of the Limits of Confinement

Section 945.091, F.S., gives the department authority to extend the limits of an inmate's confinement for certain purposes. The department makes the determination of whether it is appropriate to extend the limits of confinement for a particular inmate. Extension may be granted to:

- Allow a trusted inmate to go to a specifically designated place or places for a specified period of time for the purpose of: (1) visiting a dying relative or attending a relative's funeral; (2) arranging for post-release employment or residence; (3) aiding the inmate's rehabilitation and successful transition back into the community; or (4) another compelling reason in the public interest (s. 945.091(1)(a), F.S.);

- Allow an inmate to work at paid employment, participate in an education or training program, or volunteer with a public or nonprofit agency or faith-based service group in the community while still being confined by the department when not involved in any of the activities (s. 945.091(1)(b), F.S.);
- Allow an inmate to participate in a residential or nonresidential rehabilitative program operated by a public or private nonprofit agency, including faith-based service groups, with which the department has contracted (s. 945.091(1)(c), F.S.); and
- Allow an inmate with college-level aptitude to attend classes at a local community college or university (s. 945.091(2), F.S.).

There are three statutory disqualifications from participation in extension of the limits of confinement: (1) an inmate who has been convicted of sexual battery under s. 794.011, F.S., is ineligible for any type of extension of limits of confinement¹; (2) an inmate who has been convicted of escape under s. 944.40, F.S., is ineligible for any work release program²; and (3) an inmate who has been convicted of committing or attempting to commit murder, manslaughter, sexual battery, robbery, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, aircraft piracy, is ineligible to attend classes at any state community college or university that is part of the State University System.³

Work Release

As of February 28, 2011, the department had 33 community work release facilities ranging in size from 15 inmates at Shisa House East to 271 inmates at the Largo Residential Re-Entry Center.⁴ These facilities are located in areas where the inmate will have access to places of employment. They do not have secure perimeters, but inmates are required to remain at the facility except when they are working or traveling to or from their place of employment. There are additional reasons for which an inmate may be allowed to leave the facility for a limited time to go to a designated place, such as participating in an Alcoholics Anonymous meeting.

Inmates have participated in some form of work release since the inception of community corrections centers in 1971. The table below reflects that while the number of participants in work release programs has grown, the percentage of participants relative to the total inmate population has shrunk. It can also be seen that both the number of participant and the participation ratio have increased in recent years.⁵

¹ Section 945.091(3), F.S.

² Section 945.092, F.S.

³ Section 945.091(5), F.S. Florida Senate Interim Project Report 2004-127, January 2004, "A Review of the Department of Corrections' Inmate Work Release Law"

⁴ "End-of-Month Florida Prison Populations by Facility, February 2011," <http://www.dc.state.fl.us/pub/pop/facility/index.html>, last viewed on March 23, 2011. One of the 33 centers, the Suncoast Work Release Center for male inmates, has not housed inmates in recent months.

⁵ The table reflects the total inmate population and the number of inmates in community correctional centers/work release centers as of June 30 of the cited year, except as noted. Inmates who work at a facility in a support capacity but do not participate in a work release program are included. The data was compiled from Department of Corrections' Annual Reports and the department's end-of-month population figures.

DATE	INMATES IN WORK RELEASE FACILITIES	TOTAL INMATE POPULATION	PERCENTAGE IN WORK RELEASE FACILITIES
1974	1168	11205	10.4%
1976	1819	16716	10.9%
1980	1831	19617	9.3%
1995	2616	61478	4.3%
2000	2309	71233	3.2%
2005	2630	84901	3.1%
2010	3857	102232	3.8%
28 Feb 2011	3729	101833	3.7%

The department has adopted additional eligibility requirements for program participation as permitted by s. 945.091(3), F.S. These requirements include further disqualifying criteria, such as having been terminated from community work release, a center work assignment, or a transition program for disciplinary reasons during the current confinement.⁶ An inmate must be in the department’s custody for at least 60 days prior to placement in paid employment, and participation by most inmates is limited to the last 14 months of confinement.⁷

Department personnel help the community work release inmate establish a plan for disbursement of earnings based upon the inmates needs, responsibilities, and financial obligations. Key components of the earnings disbursement plan include the following based upon the inmate’s net income:

- At least 10 percent must be placed in savings to be disbursed upon release;
- At least 10 percent must go toward support of any dependents;
- At least 10 percent must go toward any victim restitution; and
- 55 percent must be paid to the department for subsistence, but the amount may not exceed the actual cost of the inmate’s incarceration.⁸

Expansion of work release programs is one of the measures recommended in the Report and Recommendation of the Florida TaxWatch Government Cost Savings Task Force for Fiscal Year 2011-12.⁹

III. Effect of Proposed Changes:

This bill is based upon a proposal for legislation that was advanced by then-Secretary of Corrections McDonough at two separate hearings of the Criminal and Civil Justice Appropriations Committee on August 28, 2007 and December 13, 2007. A substantively identical bill (SB 1990) was passed by the Criminal Justice Committee in 2008.

⁶ The disqualifiers are set forth in Rule 33-601.602(2)(a), F.A.C.

⁷ Rule 33-601.602(2)(b), F.A.C. Section 945.091(b)(1), F.S., requires that an inmate be within the last 36 months of his or her confinement to participate in a work release program.

⁸ The full criteria for disposition of earnings are set forth in Rule 33-601.602(11), F.A.C.

⁹ <http://www.floridataxwatch.org/resources/pdf/12082010GCTSF.pdf> , (last viewed on March 23, 2011).

The bill creates a supervised reentry program that would allow approved inmates to be housed at a department-approved residence in the community while working at paid employment or participating in other activities approved by the department. Participation in the supervised reentry program is limited to the last 14 months of an inmate's confinement.¹⁰

Inmates in the supervised release program will be required to comply with reporting, drug testing, and other requirements established by the department. An inmate who violates the program's conditions can face disciplinary action, removal from the program, or both. The department's rules allow the department to apply more subjective criteria for removal from a community release program, including: (1) the receipt of information concerning the inmate that will have an adverse impact on the safety and security of the inmate, the department, or the community; and (2) having reason to believe the inmate will honor the department's trust.¹¹

The bill requires inmates in the supervised reentry program to go to and from approved activities by means of transportation that is approved by the department. This allows the department the leeway to approve means of transportation other than "walking, bicycling, or using public transportation or transportation that is provided by a family member or employer" as is required of inmates on community work release.¹²

Inmates in the supervised reentry program would be required to pay the department for the costs of supervision in accordance with department rules, and to pay for the cost of any treatment programs in which he or she is participating.

The bill provides that inmates in the supervised reentry program will not be included in the bed count for purposes of determining total capacity of the state correctional system as defined in s. 944.023(1), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ Department rule limits most inmates from beginning community work release before the last 14 months of confinement.

¹¹ Rule 33-601.602(13), F.A.C.

¹² Section 945.021(1)(b), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Inmates will be given the opportunity to work with employers who may serve as future employers or business references when inmates return to the community after serving their sentence. This may allow inmates to find employment more easily after incarceration.

C. Government Sector Impact:

Placement in the supervised reentry program would free up beds at a work release center, which could be filled by an inmate in prison who is eligible for community work release. Therefore, the supervised reentry program would result in moving inmates from a high-cost bed in a correctional institution to a much less costly assignment.

The department did not provide an analysis of the bill or information as to its fiscal impact. However, it identified 417 inmates in work release centers who currently meet the timelines for participation in the supervised reentry program. With this number as a baseline, the table below reflects the savings that could be achieved by implementing the program:

Eligible Inmates Who Find Department-Approved Housing	Number of Inmates	Per Diem Savings for Each Inmate¹³	Annual Savings
100%	417	\$33.26	\$5,062,338
75%	313	\$33.26	\$3,799,789
50%	208	\$33.26	\$2,525,099
25%	104	\$33.26	\$1,262,550

No cost is attributed to the supervised reentry program because the bill requires inmates in the program to pay the costs of their own supervision. It is likely, though, that there would be a small cost that would be unaccounted for by the inmate’s contribution. Of course, any savings would also be reduced by any lag time for replacement as inmates leave the program.

¹³ In its analysis of Senate Bill 144, the department indicated that \$33.26 is the per diem savings for reducing the prison population by a number of inmates that is enough to support closing a dormitory but not enough to close a facility. See Department of Corrections Analysis of Senate Bill 144, p. 9.

VI. Technical Deficiencies:

It is unclear whether the bill's specific provisions for removing an inmate from the supervised reentry program would prevent the department from applying more subjective criteria that it currently applies for removal from a community release program.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Budget Subcommittee on Criminal and Civil Justice Appropriations on April 13, 2011:**

The CS makes the following changes when compared to the bill as filed:

- Removes the requirement that an inmate must first reside at a work release center for at least 6 months prior to entering this supervised reentry program.
- Removes language encouraging the department to approve an inmate's participation in the program no less than 6 months before release.
- Removes specific disciplinary language and allows the department to establish disciplinary actions by rule.

B. Amendments:

None.