

By the Committee on Criminal Justice; and Senator Evers

591-02197-13

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1 A bill to be entitled
2 An act relating to juvenile justice; repealing s.
3 945.75, F.S.; deleting a requirement that the
4 Department of Corrections and counties develop
5 programs under which a judge may order juveniles who
6 have committed delinquent acts to tour correctional
7 facilities; repealing s. 985.105, F.S., relating to
8 the creation, duties, and qualifications of the youth
9 custody officer position within the Department of
10 Juvenile Justice; amending s. 121.0515, F.S.;
11 conforming provisions to changes made by the act;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 945.75, Florida Statutes, is repealed.

17 Section 2. Section 985.105, Florida Statutes, is repealed.

18 Section 3. Paragraphs (h) through (k) of subsection (3) of
19 section 121.0515, Florida Statutes, are redesignated as
20 paragraphs (g) through (j) of that subsection, respectively, and
21 paragraphs (e) through (i) of subsection (2), present paragraphs
22 (g) and (k) of subsection (3), paragraph (b) of subsection (5),
23 paragraph (d) of subsection (8), and paragraph (c) of subsection
24 (10) of that section are amended to read:

25 121.0515 Special Risk Class.—

26 (2) MEMBERSHIP.—

27 ~~(c) Effective July 1, 2001, "special risk member" includes~~
28 ~~any member who is employed as a youth custody officer by the~~
29 ~~Department of Juvenile Justice and meets the special criteria~~

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30 ~~set forth in paragraph (3) (g).~~

31 (e)~~(f)~~ Effective October 1, 2005, through June 30, 2008,
32 the member must be employed by a law enforcement agency or
33 medical examiner's office in a forensic discipline and meet the
34 special criteria set forth in paragraph (3) (g) ~~(3) (h)~~.

35 (f)~~(g)~~ Effective July 1, 2008, the member must be employed
36 by the Department of Law Enforcement in the crime laboratory or
37 by the Division of State Fire Marshal in the forensic laboratory
38 and meet the special criteria set forth in paragraph (3) (h)
39 ~~(3) (i)~~.

40 (g)~~(h)~~ Effective July 1, 2008, the member must be employed
41 by a local government law enforcement agency or medical
42 examiner's office and meet the special criteria set forth in
43 paragraph (3) (i) ~~(3) (j)~~.

44 (h)~~(i)~~ Effective August 1, 2008, "special risk member"
45 includes any member who meets the special criteria for continued
46 membership set forth in paragraph (3) (j) ~~(3) (k)~~.

47 (3) CRITERIA.—A member, to be designated as a special risk
48 member, must meet the following criteria:

49 ~~(g) Effective July 1, 2001, the member must be employed as
50 a youth custody officer and be certified, or required to be
51 certified, in compliance with s. 943.1395. In addition, the
52 member's primary duties and responsibilities must be the
53 supervised custody, surveillance, control, investigation,
54 apprehension, arrest, and counseling of assigned juveniles
55 within the community;~~

56 (j)~~(k)~~ The member must have already qualified for and be
57 actively participating in special risk membership under
58 paragraph (a), paragraph (b), or paragraph (c), must have

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59 suffered a qualifying injury as defined in this paragraph, must
60 not be receiving disability retirement benefits as provided in
61 s. 121.091(4), and must satisfy the requirements of this
62 paragraph.

63 1. The ability to qualify for the class of membership
64 defined in paragraph (2) (h) ~~(2) (i)~~ occurs when two licensed
65 medical physicians, one of whom is a primary treating physician
66 of the member, certify the existence of the physical injury and
67 medical condition that constitute a qualifying injury as defined
68 in this paragraph and that the member has reached maximum
69 medical improvement after August 1, 2008. The certifications
70 from the licensed medical physicians must include, at a minimum,
71 that the injury to the special risk member has resulted in a
72 physical loss, or loss of use, of at least two of the following:
73 left arm, right arm, left leg, or right leg; and:

74 a. That this physical loss or loss of use is total and
75 permanent, except in the event that the loss of use is due to a
76 physical injury to the member's brain, in which event the loss
77 of use is permanent with at least 75 percent loss of motor
78 function with respect to each arm or leg affected.

79 b. That this physical loss or loss of use renders the
80 member physically unable to perform the essential job functions
81 of his or her special risk position.

82 c. That, notwithstanding this physical loss or loss of use,
83 the individual is able to perform the essential job functions
84 required by the member's new position, as provided in
85 subparagraph 3.

86 d. That use of artificial limbs is either not possible or
87 does not alter the member's ability to perform the essential job

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88 functions of the member's position.

89 e. That the physical loss or loss of use is a direct result
90 of a physical injury and not a result of any mental,
91 psychological, or emotional injury.

92 2. For the purposes of this paragraph, "qualifying injury"
93 means an injury sustained in the line of duty, as certified by
94 the member's employing agency, by a special risk member that
95 does not result in total and permanent disability as defined in
96 s. 121.091(4)(b). An injury is a qualifying injury if the injury
97 is a physical injury to the member's physical body resulting in
98 a physical loss, or loss of use, of at least two of the
99 following: left arm, right arm, left leg, or right leg.
100 Notwithstanding any other provision of this section, an injury
101 that would otherwise qualify as a qualifying injury is not
102 considered a qualifying injury if and when the member ceases
103 employment with the employer for whom he or she was providing
104 special risk services on the date the injury occurred.

105 3. The new position, as described in sub-subparagraph 1.c.,
106 that is required for qualification as a special risk member
107 under this paragraph is not required to be a position with
108 essential job functions that entitle an individual to special
109 risk membership. Whether a new position as described in sub-
110 subparagraph 1.c. exists and is available to the special risk
111 member is a decision to be made solely by the employer in
112 accordance with its hiring practices and applicable law.

113 4. This paragraph does not grant or create additional
114 rights for any individual to continued employment or to be hired
115 or rehired by his or her employer that are not already provided
116 within the Florida Statutes, the State Constitution, the

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117 Americans with Disabilities Act, if applicable, or any other
118 applicable state or federal law.

119 (5) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

120 (b) Any member who is a special risk member on July 1,
121 2008, and who became eligible to participate under paragraph
122 (3) (g) ~~(3) (h)~~ but fails to meet the criteria for Special Risk
123 Class membership established by paragraph (3) (h) ~~(3) (i)~~ or
124 paragraph (3) (i) ~~(3) (j)~~ shall have his or her special risk
125 designation removed and thereafter shall be a Regular Class
126 member and earn only Regular Class membership credit. The
127 department may review the special risk designation of members to
128 determine whether or not those members continue to meet the
129 criteria for Special Risk Class membership.

130 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

131 (d) Notwithstanding any other provision of this subsection,
132 this subsection does not apply to any special risk member who
133 qualifies for continued membership pursuant to paragraph (3) (j)
134 ~~(3) (k)~~.

135 (10) CREDIT FOR UPGRADED SERVICE.—

136 (c) Any member of the Special Risk Class who has earned
137 creditable service through June 30, 2008, in another membership
138 class of the Florida Retirement System in a position with the
139 Department of Law Enforcement or the Division of State Fire
140 Marshal and became covered by the Special Risk Class as
141 described in paragraph (3) (h) ~~(3) (i)~~, or with a local government
142 law enforcement agency or medical examiner's office and became
143 covered by the Special Risk Class as described in paragraph
144 (3) (i) ~~(3) (j)~~, which service is within the purview of the
145 Special Risk Class, and is employed in such position on or after

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146 July 1, 2008, may purchase additional retirement credit to
147 upgrade such service to Special Risk Class service, to the
148 extent of the percentages of the member's average final
149 compensation provided in s. 121.091(1)(a)2. The cost for such
150 credit must be an amount representing the actuarial accrued
151 liability for the difference in accrual value during the
152 affected period of service. The cost shall be calculated using
153 the discount rate and other relevant actuarial assumptions that
154 were used to value the Florida Retirement System Pension Plan
155 liabilities in the most recent actuarial valuation. The division
156 shall ensure that the transfer sum is prepared using a formula
157 and methodology certified by an enrolled actuary. The cost must
158 be paid immediately upon notification by the division. The local
159 government employer may purchase the upgraded service credit on
160 behalf of the member if the member has been employed by that
161 employer for at least 3 years.

162 Section 4. This act shall take effect July 1, 2013.