

1 A bill to be entitled
2 An act relating to the Department of Corrections;
3 amending s. 110.205, F.S.; exempting specified
4 positions from the career service system; amending s.
5 943.04, F.S.; authorizing the Department of Law
6 Enforcement to issue an investigative demand seeking
7 the production of an inmate's protected health
8 information, medical records, or mental health records
9 under certain circumstances; specifying requirements
10 for the investigative demand; amending s. 944.151,
11 F.S.; revising legislative intent; revising membership
12 requirements for the safety and security review
13 committee appointed by the Department of Corrections;
14 specifying the duties of the committee; requiring the
15 department to direct appropriate staff to complete
16 specified duties of the department; revising
17 scheduling requirements for inspections of state and
18 private correctional institutions and facilities;
19 revising the list of institutions that must be given
20 priority for inspection; revising the list of
21 institutions that must be given priority for certain
22 security audits; revising minimum audit and evaluation
23 requirements; requiring the department to direct
24 appropriate staff to review staffing policies and
25 practices as needed; conforming provisions to changes

26 | made by the act; amending s. 944.17, F.S.; authorizing
27 | the department to receive specified documents
28 | electronically at its discretion; amending s. 944.275,
29 | F.S.; revising the conditions on which an inmate may
30 | be granted a one-time award of 60 additional days of
31 | incentive gain-time by the department; amending s.
32 | 944.597, F.S.; revising provisions relating to
33 | training of transport company's employees before
34 | transporting prisoners; amending s. 945.36, F.S.;
35 | exempting employees of a contracted community
36 | correctional center from certain health testing
37 | regulations for the limited purpose of administering
38 | urine screen drug tests on inmates and releasees;
39 | amending s. 958.11, F.S.; deleting a provision
40 | authorizing the department to assign 18-year-old
41 | youthful offenders to the 19-24 age group facility
42 | under certain circumstances; deleting a condition that
43 | all female youth offenders are allowed to continue to
44 | be housed together only until certain institutions are
45 | established or adapted for separation by age and
46 | custody classifications; authorizing inmates who are
47 | 17 years of age or under to be placed at an adult
48 | facility for specified purposes, subject to certain
49 | conditions; authorizing the department to retain
50 | certain youthful offenders until 25 years of age in a

51 facility designated for 18- to 22-year-old youth
 52 offenders under certain circumstances; conforming
 53 provisions to changes made by the act; providing an
 54 effective date.

55
 56 Be It Enacted by the Legislature of the State of Florida:

57
 58 Section 1. Paragraph (m) of subsection (2) of section
 59 110.205, Florida Statutes, is amended to read:

60 110.205 Career service; exemptions.—

61 (2) EXEMPT POSITIONS.—The exempt positions that are not
 62 covered by this part include the following:

63 (m) All assistant division director, deputy division
 64 director, and bureau chief positions in any department, and
 65 those positions determined by the department to have managerial
 66 responsibilities comparable to such positions, which include,
 67 but are not limited to:

68 1. Positions in the Department of Health and the
 69 Department of Children and Families which are assigned primary
 70 duties of serving as the superintendent or assistant
 71 superintendent of an institution.

72 2. Positions in the Department of Corrections which are
 73 assigned primary duties of serving as the warden, assistant
 74 warden, colonel, ~~or~~ major, captain, or lieutenant of an
 75 institution or which ~~that~~ are assigned primary duties of serving

76 as the circuit administrator, ~~or~~ deputy circuit administrator,
 77 correctional probation supervisor, or senior supervisor.

78 3. Positions in the Department of Transportation which are
 79 assigned primary duties of serving as regional toll managers and
 80 managers of offices, as specified in s. 20.23(3)(b) and (4)(c).

81 4. Positions in the Department of Environmental Protection
 82 which are assigned the duty of an Environmental Administrator or
 83 program administrator.

84 5. Positions in the Department of Health which are
 85 assigned the duties of Environmental Administrator, Assistant
 86 County Health Department Director, and County Health Department
 87 Financial Administrator.

88 6. Positions in the Department of Highway Safety and Motor
 89 Vehicles which are assigned primary duties of serving as
 90 captains in the Florida Highway Patrol.

91
 92 Unless otherwise fixed by law, the department shall set the
 93 salary and benefits of the positions listed in this paragraph in
 94 accordance with the rules established for the Selected Exempt
 95 Service.

96 Section 2. Subsection (6) is added to section 943.04,
 97 Florida Statutes, to read:

98 943.04 Criminal Justice Investigations and Forensic
 99 Science Program; creation; investigative, forensic, and related
 100 authority.—

101 (6) (a) In furtherance of the duties and responsibilities
102 of the inspector general under s. 944.31, if the Department of
103 Law Enforcement is conducting an investigation or assisting in
104 the investigation of an injury to or death of an inmate which
105 occurs while the inmate is under the custody or control of the
106 Department of Corrections, the department is authorized to,
107 before the initiation of a criminal proceeding relating to such
108 injury or death, issue in writing and serve upon the Department
109 of Corrections an investigative demand seeking the production of
110 the inmate's protected health information, medical records, or
111 mental health records as specified in s. 945.10(1) (a). The
112 department shall use such records for the limited purpose of
113 investigating or assisting in an investigation of an injury to
114 or death of an inmate for which the records were requested. Any
115 records disclosed pursuant to this subsection remain
116 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
117 of the State Constitution in accordance with s. 945.10(2).

118 (b) The investigative demand must be specific and limited
119 in scope to the extent reasonably practicable in light of the
120 purpose for which the protected health information or records
121 are sought and must include a certification that:

122 1. The protected health information or records sought are
123 relevant and material to a legitimate law enforcement inquiry;

124 2. There is a clear connection between the investigated
125 incident and the inmate whose protected health information and

126 | records are sought; and

127 | 3. De-identified information could not reasonably be used.

128 | Section 3. Section 944.151, Florida Statutes, is amended
129 | to read:

130 | 944.151 Safe operation and security of correctional
131 | institutions and facilities.—It is the intent of the Legislature
132 | that the Department of Corrections shall be responsible for the
133 | safe operation and security of the correctional institutions and
134 | facilities. The safe operation and security of the state's
135 | correctional institutions and facilities are ~~is~~ critical to
136 | ensure public safety and the safety of department employees and
137 | offenders, and to contain violent and chronic offenders until
138 | offenders are otherwise released from the department's custody
139 | pursuant to law. The Secretary of Corrections shall, at a
140 | minimum:

141 | (1) Appoint appropriate department staff to a safety and
142 | security review committee that ~~which~~ shall evaluate new safety
143 | and security technology, review and discuss current issues
144 | impacting state and private correctional institutions and
145 | facilities, and review and discuss other issues as requested by
146 | department management., ~~at a minimum, be composed of: the~~
147 | ~~inspector general, the statewide security coordinator, the~~
148 | ~~regional security coordinators, and three wardens and one~~
149 | ~~correctional officer. The security review committee shall:~~

150 | (2)(a) Direct appropriate department staff to establish a

151 periodic schedule for the physical inspection of buildings and
152 structures of each state and private correctional institution
153 and facility to determine safety and security deficiencies. In
154 scheduling the inspections, priority shall be given to older
155 institutions and facilities; ~~institutions and facilities~~ that
156 house a large proportion of violent offenders; institutions and
157 facilities that have experienced a significant number of
158 inappropriate incidents of use of force on inmates, assaults on
159 employees, or inmate sexual abuse; ~~and institutions and~~
160 facilities that have experienced a significant number of escapes
161 or escape attempts in the past.

162 ~~(3)(b)~~ Direct appropriate department staff to conduct or
163 cause to be conducted announced and unannounced comprehensive
164 security audits of all state and private correctional
165 institutions and facilities. Priority shall be given to those
166 institutions and facilities that have experienced a significant
167 number of inappropriate incidents of use of force on inmates,
168 assaults on employees, or sexual abuse ~~In conducting the~~
169 ~~security audits, priority shall be given to older institutions,~~
170 ~~institutions that house a large proportion of violent offenders,~~
171 ~~and institutions that have experienced a history of escapes or~~
172 ~~escape attempts.~~ At a minimum, the audit must ~~shall~~ include an
173 evaluation of the physical plant, landscaping, fencing, security
174 alarms and perimeter lighting, and confinement, arsenal, key and
175 lock, and entrance and exit ~~inmate classification and staffing~~

176 | policies. The evaluation of the physical plant policies must
177 | include the identification of blind spots or areas where staff
178 | or inmates may be isolated and the deployment of video
179 | monitoring systems and other appropriate monitoring technologies
180 | in such spots or areas. Each correctional institution and
181 | facility shall be audited at least annually. The secretary shall
182 | annually report the audit ~~general survey~~ findings ~~annually~~ to
183 | the Governor and the Legislature.

184 | ~~(c) Adopt and enforce minimum security standards and~~
185 | ~~policies that include, but are not limited to:~~

- 186 | ~~1. Random monitoring of outgoing telephone calls by~~
187 | ~~inmates.~~
- 188 | ~~2. Maintenance of current photographs of all inmates.~~
- 189 | ~~3. Daily inmate counts at varied intervals.~~
- 190 | ~~4. Use of canine units, where appropriate.~~
- 191 | ~~5. Use of escape alarms and perimeter lighting.~~
- 192 | ~~6. Florida Crime Information Center/National Crime~~
193 | ~~Information Center capabilities.~~
- 194 | ~~7. Employment background investigations.~~

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

198 | (4)(e) Direct appropriate department staff to investigate
199 | and evaluate the usefulness and dependability of existing safety
200 | and security technology at state and private correctional the

201 institutions and facilities, investigate and evaluate new
202 available safety and security technology, ~~available~~ and make
203 periodic written recommendations to the secretary on the
204 discontinuation or purchase of various safety and security
205 devices.

206 (5) ~~(f)~~ Direct appropriate department staff to contract, if
207 deemed necessary, with security personnel, consulting engineers,
208 architects, or other safety and security experts the department
209 ~~committee~~ deems necessary for safety and security audits and
210 ~~security~~ consultant services.

211 (6) ~~(g)~~ Direct appropriate department staff, in conjunction
212 with the regional offices, to establish a periodic schedule for
213 conducting announced and unannounced escape simulation drills.

214 (7) ~~(2)~~ Direct appropriate department staff to maintain and
215 produce quarterly reports with accurate escape statistics. For
216 the purposes of these reports, the term "escape" includes all
217 possible types of escape, regardless of prosecution by the state
218 attorney, and includes ~~including~~ offenders who walk away from
219 nonsecure community facilities.

220 (8) ~~(3)~~ Direct appropriate department staff to adopt,
221 enforce, and annually evaluate the emergency escape response
222 procedures, which must ~~shall~~ at a minimum include the immediate
223 notification and inclusion of local and state law enforcement
224 through a mutual aid agreement.

225 (9) Direct appropriate department staff to review staffing

226 | policies and practices as needed.

227 | (10) Direct appropriate department staff to adopt and
 228 | enforce minimum safety and security standards and policies that
 229 | include, but are not limited to:

230 | (a) Random monitoring of outgoing telephone calls by
 231 | inmates.

232 | (b) Maintenance of current photographs of all inmates.

233 | (c) Daily inmate counts at varied intervals.

234 | (d) Use of canine units, where appropriate.

235 | (e) Use of escape alarms and perimeter lighting.

236 | (f) Use of the Florida Crime Information Center and
 237 | National Crime Information Center capabilities.

238 | (g) Employment background investigations.

239 | (11)-(4) Direct appropriate department staff to submit in
 240 | the annual legislative budget request a prioritized summary of
 241 | critical safety and security deficiencies and repair and
 242 | renovation security needs.

243 | Section 4. Subsection (5) of section 944.17, Florida
 244 | Statutes, is amended to read:

245 | 944.17 Commitments and classification; transfers.—

246 | (5) The department shall also refuse to accept a person
 247 | into the state correctional system unless the following
 248 | documents are presented in a completed form by the sheriff or
 249 | chief correctional officer, or a designated representative, to
 250 | the officer in charge of the reception process. The department

251 may, at its discretion, receive such documents electronically:

252 (a) The uniform commitment and judgment and sentence forms
253 as described in subsection (4).

254 (b) The sheriff's certificate as described in s. 921.161.

255 (c) A certified copy of the indictment or information
256 relating to the offense for which the person was convicted.

257 (d) A copy of the probable cause affidavit for each
258 offense identified in the current indictment or information.

259 (e) A copy of the Criminal Punishment Code scoresheet and
260 any attachments thereto prepared pursuant to Rule 3.701, Rule
261 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or
262 any other rule pertaining to the preparation of felony
263 sentencing scoresheets.

264 (f) A copy of the restitution order or the reasons by the
265 court for not requiring restitution pursuant to s. 775.089(1).

266 (g) The name and address of any victim, if available.

267 (h) A printout of a current criminal history record as
268 provided through an FCIC/NCIC printer.

269 (i) Any available health assessments including medical,
270 mental health, and dental, including laboratory or test
271 findings; custody classification; disciplinary and adjustment;
272 and substance abuse assessment and treatment information which
273 may have been developed during the period of incarceration
274 before ~~prior to~~ the transfer of the person to the department's
275 custody. Available information shall be transmitted on standard

276 forms developed by the department.

277

278 In addition, the sheriff or other officer having such person in
 279 charge shall also deliver with the foregoing documents any
 280 available presentence investigation reports as described in s.
 281 921.231 and any attached documents. After a prisoner is admitted
 282 into the state correctional system, the department may request
 283 such additional records relating to the prisoner as it considers
 284 necessary from the clerk of the court, the Department of
 285 Children and Families, or any other state or county agency for
 286 the purpose of determining the prisoner's proper custody
 287 classification, gain-time eligibility, or eligibility for early
 288 release programs. An agency that receives such a request from
 289 the department must provide the information requested. The
 290 department may, at its discretion, receive such information
 291 electronically.

292 Section 5. Paragraph (d) of subsection (4) of section
 293 944.275, Florida Statutes, is amended to read:

294 944.275 Gain-time.—

295 (4)

296 (d) Notwithstanding the monthly maximum awards of
 297 incentive gain-time under subparagraphs (b)1., ~~and 2., and 3.,~~
 298 the education program manager shall recommend, and the
 299 Department of Corrections may grant, a one-time award of 60
 300 additional days of incentive gain-time to an inmate who is

301 otherwise eligible and who successfully completes requirements
 302 for and is, or has been during the current commitment, awarded a
 303 high school equivalency diploma or vocational certificate. Under
 304 no circumstances may an inmate receive more than 60 days for
 305 educational attainment pursuant to this section.

306 Section 6. Subsection (2) of section 944.597, Florida
 307 Statutes, is amended to read:

308 944.597 Transportation and return of prisoners by private
 309 transport company.—

310 (2) The department shall include, but is ~~shall~~ not ~~be~~
 311 limited to, the following requirements in any contract with any
 312 transport company:

313 (a) That the transport company shall maintain adequate
 314 liability coverage with respect to the transportation of
 315 prisoners.†

316 (b) That the transport company shall require its employees
 317 to complete at least 100 hours of training before transporting
 318 prisoners. The curriculum for such training must be approved by
 319 the department and include instruction in:

- 320 1. Use of restraints;
- 321 2. Searches of prisoners;
- 322 3. Use of force, including use of appropriate weapons and
 323 firearms;
- 324 4. Cardiopulmonary resuscitation;
- 325 5. Map reading; and

326 6. Defensive driving. ~~personnel employed with the~~
 327 ~~transport company who are based in the state shall meet the~~
 328 ~~minimum standards in accordance with s. 943.13 and that~~
 329 ~~personnel employed with the transport company based outside of~~
 330 ~~Florida shall meet the minimum standards for a correctional~~
 331 ~~officer or law enforcement officer in the state where the~~
 332 ~~employee is based;~~

333 (c) That the transport company shall adhere to standards
 334 which provide for humane treatment of prisoners while in the
 335 custody of the transport company.†

336 (d) That the transport company shall submit reports to the
 337 department regarding incidents of escape, use of force, and
 338 accidents involving prisoners in the custody of the transport
 339 company.

340 Section 7. Section 945.36, Florida Statutes, is amended to
 341 read:

342 945.36 Exemption from health testing regulations for law
 343 enforcement personnel conducting drug tests on inmates and
 344 releasees.-

345 (1) Any law enforcement officer, state or county probation
 346 officer, ~~or~~ employee of the Department of Corrections, or
 347 employee of a contracted community correctional center who is
 348 certified by the Department of Corrections pursuant to
 349 subsection (2), is exempt from part I of chapter 483, for the
 350 limited purpose of administering a urine screen drug test to:

351 (a) Persons during incarceration;

352 (b) Persons released as a condition of probation for

353 either a felony or misdemeanor;

354 (c) Persons released as a condition of community control;

355 (d) Persons released as a condition of conditional

356 release;

357 (e) Persons released as a condition of parole;

358 (f) Persons released as a condition of provisional

359 release;

360 (g) Persons released as a condition of pretrial release;

361 or

362 (h) Persons released as a condition of control release.

363 (2) The Department of Corrections shall develop a

364 procedure for certification of any law enforcement officer,

365 state or county probation officer, ~~or~~ employee of the Department

366 of Corrections, or employee of a contracted community

367 correctional center to perform a urine screen drug test on the

368 persons specified in subsection (1).

369 Section 8. Section 958.11, Florida Statutes, is amended to

370 read:

371 958.11 Designation of institutions and programs for

372 youthful offenders; assignment from youthful offender

373 institutions and programs.—

374 (1) The department shall by rule designate separate

375 institutions and programs for youthful offenders and shall

376 employ and utilize personnel specially qualified by training and
377 experience to operate all such institutions and programs for
378 youthful offenders. Youthful offenders who are at least 14 years
379 of age but who have not yet reached the age of 18 ~~19~~ years at
380 the time of reception shall be separated from youthful offenders
381 who are 18 ~~19~~ years of age or older, ~~except that if the~~
382 ~~population of the facilities designated for 14-year-old to 18-~~
383 ~~year-old youthful offenders exceeds 100 percent of lawful~~
384 ~~capacity, the department may assign 18-year-old youthful~~
385 ~~offenders to the 19-24 age group facility.~~

386 (2) Youthful offender institutions and programs shall
387 contain only those youthful offenders sentenced as such by a
388 court or classified as such by the department, pursuant to the
389 requirements of subsections (7) ~~(4)~~ and (9) ~~(6)~~, except that
390 under special circumstances select adult offenders may be
391 assigned to youthful offender institutions. All female youthful
392 offenders ~~of all ages~~ may continue to be housed together at
393 those institutions designated by department rule ~~until such time~~
394 ~~as institutions for female youthful offenders are established or~~
395 ~~adapted to allow for separation by age and to accommodate all~~
396 ~~eustody classifications.~~

397 (3) The department may assign a youthful offender who is
398 18 years of age or older to a facility in the state correctional
399 system which is not designated for the care, custody, control,
400 and supervision of youthful offenders or an age group only in

401 the following circumstances:

402 (a) If the youthful offender is convicted of a new crime
403 that ~~which~~ is a felony under the laws of this state.

404 (b) If the youthful offender becomes such a serious
405 management or disciplinary problem resulting from serious
406 violations of the rules of the department that his or her
407 original assignment would be detrimental to the interests of the
408 program and to other inmates committed thereto.

409 (c) If the youthful offender needs medical treatment,
410 health services, or other specialized treatment otherwise not
411 available at the youthful offender facility.

412 (d) If the department determines that the youthful
413 offender should be transferred outside of the state correctional
414 system, as provided by law, for services not provided by the
415 department.

416 (e) If bed space is not available in a designated
417 community residential facility, the department may assign a
418 youthful offender to a community residential facility, provided
419 that the youthful offender is separated from other offenders
420 insofar as is practical.

421 (4) The department may assign a youthful offender whose
422 age does not exceed 17 years to an adult facility for medical or
423 mental health reasons, for protective management, or for close
424 management. The youthful offender shall be separated from
425 offenders who are 18 years of age or older.

426 ~~(f)~~ (5) If the youthful offender was originally assigned to
427 a facility designated for 14- to 17-year-old ~~14-year-old to 18-~~
428 ~~year-old~~ youthful offenders, but subsequently reaches the age of
429 18 ~~19~~ years, the department may retain the youthful offender in
430 a the facility designated for 18- to 22-year-old youthful
431 offenders if the department determines that it is in the best
432 interest of the youthful offender and the department.

433 (6) If the youthful offender was originally assigned to a
434 facility designated for 18- to 22-year-old youthful offenders,
435 but subsequently reaches the age of 23 years, the department may
436 retain the offender in the facility until the age of 25 if the
437 department determines that it is in the best interest of the
438 youthful offender and the department.

439 ~~(g)~~ If the department determines that a youthful offender
440 originally assigned to a facility designated for the 19-24 age
441 group is mentally or physically vulnerable by such placement,
442 the department may reassign a youthful offender to a facility
443 designated for the 14-18 age group if the department determines
444 that a reassignment is necessary to protect the safety of the
445 youthful offender or the institution.

446 ~~(h)~~ If the department determines that a youthful offender
447 originally assigned to a facility designated for the 14-18 age
448 group is disruptive, incorrigible, or uncontrollable, the
449 department may reassign a youthful offender to a facility
450 designated for the 19-24 age group if the department determines

451 ~~that a reassignment would best serve the interests of the~~
452 ~~youthful offender and the department.~~

453 (7)~~(4)~~ The department shall continuously screen all
454 institutions, facilities, and programs for any inmate who meets
455 the eligibility requirements for youthful offender designation
456 specified in s. 958.04(1)(a) and (c) whose age does not exceed
457 24 years and whose total length of sentence does not exceed 10
458 years, and the department may classify and assign as a youthful
459 offender any inmate who meets the criteria of this subsection.

460 (8)~~(5)~~ The department shall coordinate all youthful
461 offender assignments or transfers and shall review and maintain
462 access to full and complete documentation and substantiation of
463 all such assignments or transfers of youthful offenders to or
464 from facilities in the state correctional system which are not
465 designated for their care, custody, and control, except
466 assignments or transfers made pursuant to paragraph (3)(c).

467 (9)~~(6)~~ The department may assign to a youthful offender
468 facility any inmate, except a capital or life felon, whose age
469 does not exceed 19 years but who does not otherwise meet the
470 criteria of this section, if the department determines that such
471 inmate's mental or physical vulnerability would substantially or
472 materially jeopardize his or her safety in a nonyouthful
473 offender facility. Assignments made under this subsection shall
474 be included in the department's annual report.

475 Section 9. This act shall take effect July 1, 2017.