

**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.)

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

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BILL: CS/SB 854

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Correctional Officers

DATE: February 6, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Forbes</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 854 lowers the minimum age for employment as a correctional officer from 19 years of age to 18 years of age. However, a correctional officer who is younger than 19 years of age may not supervise inmates but may perform all other duties performed by a full-time, part-time, or auxiliary correctional officer.

The bill does not affect state revenues or expenditures.

The bill is effective July 1, 2018.

**II. Present Situation:**

The Criminal Justice Standards and Training Commission (Commission), which is housed within the Florida Department of Law Enforcement (FDLE) is, in part, responsible for implementing

requirements related to the training, certification, and discipline of full-time, part-time,<sup>1</sup> and auxiliary<sup>2</sup> correctional officers.<sup>3</sup>

Section 943.10(2), F.S., defines “correctional officer” to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.<sup>4</sup>

Section 943.13, F.S., provides that, to be eligible to be employed as a correctional officer, the person must:

- Be at least 19 years of age;
- Be a citizen of the United States, notwithstanding any law of the state to the contrary;
- Be a high school graduate or its equivalent;<sup>5</sup>
- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;<sup>6</sup>
- Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections (DOC) or the Commission;<sup>7</sup>

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<sup>1</sup> Section 943.10(7), F.S., defines “part-time correctional officer” to mean any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.

<sup>2</sup> Section 943.10(9), F.S., defines “auxiliary correctional officer” to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

<sup>3</sup> Correctional officers are eligible for special risk class benefits in accordance with s. 121.0515, F.S. Special risk class membership awards more retirement credit per year of service than is awarded to other employees due to the increased risk that such employees undertake as a part of their duties. Membership of correctional officers in the special risk class is determined by whether the officer’s primary duties and responsibilities involve the custody of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or whether the officer is the supervisor or command officer of a member or members who have such responsibilities. Section 121.0515(1) and (3)(c), F.S.

<sup>4</sup> Section 943.10(2), F.S.

<sup>5</sup> Section 943.13(3), F.S., provides that the Commission must define the term high school equivalency in rule.

<sup>6</sup> Section 943.13(4), F.S., further specifies that: a. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication; and b. Any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

<sup>7</sup> Section 943.13(5), F.S., provides that the FDLE must retain and enter into the statewide automated biometric identification system all fingerprints submitted. Thereafter, the fingerprints must be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051, F.S. The FDLE is also required to search all arrest fingerprints received pursuant to s. 943.051, F.S., against the fingerprints retained in the statewide automated biometric identification system in accordance with s. 943.13, F.S., and report to the employing agency any arrest records that are identified with the retained employee’s fingerprints. These fingerprints must be forwarded to the FDLE for processing and retention.

- Have passed a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;
- Have a good moral character as determined by a background investigation by the Commission;
- Execute and submit a sworn affidavit-of-applicant form attesting to his or her compliance with the above-listed requirements to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity;
- Complete a Commission approved basic recruit training program for the applicable criminal justice discipline, unless exempt under law;<sup>8</sup> and
- Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

If a critical need for officers exists, the employing agency may temporarily employ a person as a correctional officer, if he or she has met all the requirements listed above, even if he or she has not completed basic recruit school or received an acceptable score on the certification examination.<sup>9</sup> Any person employed as a temporary correctional officer must be supervised by another correctional officer anytime he or she is performing any duties of a correctional officer and must attend the first basic recruit training program offered in the geographic area within 180 consecutive days of employment.<sup>10</sup> A person temporarily employed as a correctional officer is prohibited from being employed in the position for more than 30 months. However, a person that is attending the first available basic recruit training program offered in his or her geographic area may continue to be employed as a temporary correctional officer until he or she:

- Fails or withdraws from the basic recruit training program; or
- Is separated from employment or appointment by the employing agency.<sup>11</sup>

Any person employed as a correctional officer, regardless of age, must comply with all the above-described eligibility criteria and any other requirements imposed by the Commission, including such requirements as continuing education requirements proscribed in s. 943.135, F.S.

The DOC reports that 23 states permit 18 year olds to be employed as correctional officers.<sup>12</sup>

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<sup>8</sup> Section 943.13(9), F.S., provides an exemption for an applicant to be required to take the basic recruit training program, including that if the applicant has completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year. For the exemption to be available, the applicant cannot have more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for the exemption.

<sup>9</sup> Section 943.131(1)(a), F.S.

<sup>10</sup> Section 943.131(1)(a) and (c), F.S.

<sup>11</sup> Section 943.131(1)(b), F.S.

<sup>12</sup> These states include Arkansas, Georgia, Illinois, Indiana, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New Mexico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Florida Department of Corrections, *Senate Bill 854 Analysis*, at p. 2, (September 19, 2017) (on file with the Senate Committee on Criminal Justice).

**III. Effect of Proposed Changes:**

The bill amends s. 943.13, F.S., to reduce the minimum age requirement for correctional officers from 19 years of age to 18 years of age.

The bill also creates s. 944.145, F.S., to prohibit a correctional officer younger than 19 years of age from supervising inmates. A correctional officer that is younger than 19 years of age may perform all other duties performed by a full-time, part-time, or auxiliary correctional officer.<sup>13</sup>

The bill takes effect July 1, 2018.

**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:**

The bill permits the DOC to hire persons who are between 18 and 19 years of age to perform limited correctional officer functions. To the extent that this bill increases the number of persons the DOC is able to hire, the bill could potentially reduce the current vacancy rate within correctional facilities.

**VI. Technical Deficiencies:**

None.

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<sup>13</sup> A person employed as a correctional officer who is younger than 19 years of age will not qualify for special risk class benefits because he or she will not be supervising inmates, which is required pursuant to s. 121.0515, F.S.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 943.13 of the Florida Statutes.

This bill creates section 944.145 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on January 9, 2018:**

The committee substitute amends s. 943.13, F.S., expanding the eligibility requirements of a correctional officer to include a person who is 18 years of age, rather than 19 years of age or older. The committee substitute also creates s. 944.145, F.S., prohibiting a correctional officer younger than 19 years of age from supervising inmates.

- B. **Amendments:**

None.