

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 Committee on Criminal Justice

BILL: SB 1048

INTRODUCER: Senator Burgess

SUBJECT: Independent Incentivized Prison Program

DATE: January 12, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	Favorable
2.			ACJ	
3.			FP	

I. Summary:

SB 1048 creates s. 944.8032, F.S., to implement an independent incentivized prison program within the Department of Corrections (DOC). The independent incentivized prison program is specific to eligible nonviolent offenders. The bill provides legislative intent and definitions for “nonviolent offense,” “recidivism,” and “tentative release date.” The bill provides criteria for the program to be established, admission criteria, requirements for the program, and reporting. The bill requires the DOC to adopt rules to implement the program.

The bill may have an indeterminate fiscal impact on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2024.

II. Present Situation:

The DOC is the largest state agency in Florida and the third largest state prison system in the country. The DOC employs nearly 24,000 members, incarcerates over 80,000 inmates, and supervises more than 146,000 offenders in the community. The DOC has 128 facilities statewide including 50 major institutions.¹

Incentivized prisons serve as voluntary, progressive housing units that afford inmates the opportunity to complete their sentence within a population of like-minded individuals wanting to overcome their problematic past and be the change agents of their futures. Current male incentivized prisons include Everglades, Marion, Sumter, Tomoka, Madison, and Jefferson correctional institutions. Female inmates are afforded a similar program, with similar

¹ Department of Corrections, *Institutions*, available at <https://fdc.myflorida.com/ci/index.html> (Last accessed January 11, 2024).

enhancements, in a dorm setting at Lowell Annex. As of April 2022, there were 7,736 male and 257 female inmates currently participating in the incentivized prison program and approximately 4,600 eligible male inmates on the waiting list.²

Specialized Program Institutions

Current incentivized prison programs are established in Rule 33-601.250, F.A.C. The Incentivized Prison Program refers to a voluntary prison program located at a DOC institution or dorm for inmates who meet a strict admission criteria based on their demonstrated positive behavior while incarcerated. The program focuses on quality of life and life skills improvements, education, recreation, leisure, wellness opportunities, and re-integration into the community. The program is housed under the DOC Office of Programs and Re-Entry.³

To be placed in an incentivized prison program, inmates must meet the following criteria:

- Must not have been assigned to Close Management⁴ within the last four years.
- Must not have been found guilty of a disciplinary report for any of the behaviors in the last four years such as: sexual battery or attempted sexual battery, assault or attempted assault, and other offenses.⁵
- Must not have been found guilty of a disciplinary report for any behavior listed that resulted in disciplinary confinement placement within the past two years.⁶
- Must not be otherwise documented a security or disciplinary risk.
- Must be compatible with the institution's mission and profile where the incentivized prison program is located.

Inmates may voluntarily request placement through his or her classification officer by submitting an inmate request form, or during his or her annual progress review.

² Department of Corrections, *Incentivized Prisons Overview*, April 7, 2022 (on file with the Senate Committee on Criminal Justice).

³ The Office of Programs and Re-Entry is committed to leadership in rehabilitative programs that support the improvement and readiness of lives in custody of the DOC and increases security and public safety by providing programming for productive learning, positively transforming behaviors, and teaching pro-social skills that assists with re-integration into communities. The Office oversees four bureaus: program development, substance use treatment, education, and chaplaincy services. See Department of Corrections, *Office of Programs and Re-Entry*, available at <https://fdc.myflorida.com/development/index.html> (Last accessed January 11, 2024).

⁴ Close management is the separation of an inmate apart from the general population, for reasons of security or the order and effective management of the institution, when the inmate through his or her behavior, has demonstrated an inability to live in the general population without abusing the rights and privileges of others. Rule 33-601.800, F.A.C.

⁵ Rule 33-601.250, F.A.C provides an inmate must not have been found guilty of a disciplinary report for specified behaviors within the past four years. These behaviors include, in part, sexual battery or attempted sexual battery; lewd or lascivious exhibition by intentionally masturbating, intentionally exposing genitals in a lewd or lascivious manner, or intentionally committing any other sexual act in the presence of a staff member, contracted staff member, or visitor; or, aggravated battery or attempted aggravated battery on a correctional officer, staff other than a correctional officer, someone other than staff or inmates, or an inmate.

⁶ Rule 33-601.314, F.A.C. lists additional prohibited conduct in addition to Rule 33-601.250 F.A.C. Some examples of additional prohibited conduct includes: spoken, written, or gestured threats; disrespect to officials, employees, or other persons of constituted authority expressed by means of words, gestures, and the like; possession of unauthorized or altered identification; possession of unauthorized clothing or linen; possession of stolen property; possession of any other contraband or transfer of items; possession, introduction, or trafficking of tobacco or related products.

The selection of an inmate to participate is based on a number of factors, including the inmate's disciplinary history, past transfers, length of incarceration, overall adjustment to the incarceration experience, security threat affiliation or activity, and past program participation. The State Classification Office⁷ is responsible for the review and selection of inmates that will maintain a balanced population⁸ and other factors that impact the security of the institution.

An inmate is removed from an incentivized prison program for any of the following reasons:

- Being found guilty of any disciplinary report for any behavior listed in Rule 33-601.314, F.A.C. that results in disciplinary confinement placement.
- Being found guilty of any disciplinary report listed in rule.
- By requesting removal in writing on an inmate request form.
- If determined to be a documented threat, removal can be initiated by the Warden, Assistant Warden, Colonel, or the classification office in conjunction with leadership.

An incentive under this program includes two additional visitation days per week. Participants also have access to the canteen in the morning and afternoon, and in the evening during summer months.

Faith- and Character-Based Programs

Section 944.803, F.S., outlines faith- and character-based programs with an emphasis on the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.⁹ Assignment to a program is based on evaluation and length of time the inmate is projected to be assigned to that particular institution where services are offered.¹⁰

III. Effect of Proposed Changes:

The bill creates s. 944.8032, F.S., to establish the independent incentivized prison program as an expansion of the incentivized prison programs under the DOC's Office of Programs and Re-Entry. This program will only be available to nonviolent offenders. The bill provides it is the intent of the Legislature that the DOC expand the incentivized prison program to provide education, life skills, and discharge planning in a continued effort to reduce recidivism rates. The DOC is encouraged to identify areas of need and alternative pathways to reducing recidivism rates.

The bill defines the terms "nonviolent offense,"¹¹ "recidivism,"¹² and "tentative release date."¹³

⁷ State Classification Office (SCO) refers to the office or office staff at the central office level that is responsible for the review of inmate classification decisions. Duties include approving, disapproving, or modifying Institutional Classification Team recommendations, and approving program transfers. Rule 33-601.250(1)(d), F.A.C.

⁸ With regard to race, custody, sex offender status, and gang membership. Rule 33-601.250(4), F.A.C.

⁹ Section 944.803(4)(b), F.S.

¹⁰ Section 944.803(4)(c), F.S.

¹¹ "Nonviolent offense" means an offense, or attempted offense, that does not involve the intentional use or threat of physical force or violence against another individual.

¹² "Recidivism" means an inmate's rearrest, conviction, reincarceration, or probation revocation within 3 years after his or her release from incarceration.

¹³ "Tentative release date" means the anticipated date on which an inmate will be released from incarceration after the application of adjustments for any gain-time earned or credit for time served.

The independent incentivized prison program will focus on preparing inmates for reentry into the community by emphasizing education and vocational training, job readiness skills, substance use disorder treatment, mental health treatment, life skills, and post-release planning. The program must be established at a rural correctional institution that houses male inmates at a capacity of at least 1,500 inmates and is located in a county with a population of no fewer than 25,000 and no more than 30,000. The program will serve the entire prison.

Admission Criteria

To qualify for the program, an inmate must meet the following admission criteria:

- Be a citizen of the United States.
- Request to participate in the program using the process developed by rule.
- Be serving a term of imprisonment only for a nonviolent offense or offenses that are not a violation of the following:
 - The Florida Sexual Predators Act pursuant to s. 775.21, F.S.
 - Forcible felony pursuant to s. 776.08, F.S., except for specified crimes of burglary.¹⁴
 - Indecent, lewd, or lascivious touching of certain minors pursuant to s. 794.051(1), F.S.
 - Lewd or lascivious written solicitation of certain minors pursuant to s. 794.053, F.S.
 - Deriving support from the proceeds of prostitution pursuant to s. 796.05, F.S.
 - Aggravated animal cruelty pursuant to s. 828.12(2), F.S.
 - Fighting or baiting animals pursuant to s. 828.122(3), F.S.
 - Killing or aggravated abuse of horses or cattle pursuant to s. 828.125(1), F.S.
 - Sexual activities involving animals pursuant to s. 828.126, F.S.
 - Certain acts pertaining to obscene materials pursuant to s. 847.011, F.S.
 - Sale or distribution of harmful material to minors pursuant to s. 847.012, F.S.
 - An offense that would require sexual offender registration pursuant to s. 943.0435, F.S.
- Have never been convicted of a violation of any offense listed under the Florida Sexual Predators Act within s. 775.21, F.S., or would require sexual offender registration pursuant to s. 943.0435, F.S.
- Have a tentative release date greater than 2 years but less than 5 years at the time of consideration.
- Qualify under the DOC rules to participate in an established incentivized prison program.

Priority shall be given to an inmate who is a veteran and meets all of the requirements.

The bill provides language to remove an inmate from the independent incentivized prison program if the:

- Inmate is found guilty of a violation on any disciplinary report;
- Inmate requests removal in the manner determined by the DOC rule; or
- DOC determines that the inmate poses a threat to the safety, security, or orderly operation of the program, and such threat is documented.

¹⁴ Burglaries exempt are those of a dwelling when there is not another person in the dwelling at the time; burglary of a structure or conveyance when the offense intended to be committed is theft of a controlled substance, or for burglary of the third degree if the offender does not make an assault or battery and does not become armed and there is not another person in the structure or conveyance at the time the offender enters or remains. Sections 810.02(3)(b), (3)(f), and (4), F.S.

Program Requirements

The independent incentivized prison program is required to consult with CareerSource Florida to identify high-demand occupations where inmates are likely to be hired and prioritize training and educational opportunities to prepare for such occupations. Upon entry into the program, the program must evaluate every participants' needs related to education, vocational training, substance use disorder treatment, mental health treatment, and community supports.

The program will provide access to substance use treatment, remedial and basic education services, and other enrichment programs in the same manner as other incentivized prison programs. As an incentive, the program will provide increased visitation, increased or free phone calls, and is authorized to provide other incentives.

The program must also be housed in a facility that is fully equipped with air-conditioning but may begin before it is fully equipped. The program may enter into agreements with the Florida Virtual School and local state colleges and universities to provide academic education and vocational training. The DOC is required to employ transition specialists¹⁵ and provide specialized training for staff and correctional officers in the program.

Reports

The DOC is required to submit specified reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill provides that the DOC must submit its initial report to provide an overview of the program by October 1, 2025. The bill further requires the DOC to provide a report on the program by October 1, 2028, and annually thereafter.

The bill provides rule making authority for the DOC to implement and administer this program.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁵ Transition specialists are responsible for developing an individualized reentry plan for each participant which addresses: obtaining identification needed for reentry: birth certificate, social security card, etc.; obtaining any necessary vocational or occupational license or credential; eligibility for state and federal benefits; accessing health services in the community: medical, dental, mental health services, and substance use disorder treatment; job placement and other employment services: resume writing, interviewing; basic physical needs: housing, food, clothing; life skills: anger management, money management, conflict resolution; identifying support systems; family, friends, community groups, religious groups, recovery groups; academic and vocation programs; transportation; and post-release support for 12 months.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have a fiscal impact on the DOC due to a number of reasons including equipping the facility with air-conditioning, relocating inmates from the institution where the program will be implemented, hiring and training staff, and providing additional incentives.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 944.8032 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.
