

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 240

SPONSOR: Criminal Justice Committee and Senator Smith

SUBJECT: Crimes Committed While Incarcerated

DATE: February 7, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gardner	Cannon	CJ	Favorable/CS
2.			APJ	
3.			AP	
4.				
5.				

I. Summary:

Committee Substitute for Senate Bill 240 would require any inmate to serve the sentence for the newly committed crime in the state correctional system or private prison, regardless of whether the new crime(s) is a felony or a misdemeanor. To accomplish this it would create a new paragraph in s. 944.17(3), F.S., pertaining to any inmate incarcerated in the state correctional system who is convicted of any new crime committed during that incarceration, and it would be numbered s. 944.17(3)(b), F.S. This bill would direct the sentencing court on how to sentence the prisoner when the highest ranking offence is a felony and when the highest ranking offense is a misdemeanor.

The provisions of this bill would take effect on July 1, 2001.

This bill amends section 944.17 to create paragraphs 944.17(3)(b) and (c).

II. Present Situation:

Some inmates in the state correctional system commit new offenses while incarcerated. Such crimes tend to include offenses against correctional officers and other department personnel, other inmates, visitors, and contractors, as well as possession of various forms of contraband. The department maintains that these offenses have a tendency to undermine security and control within the prison environment.

Currently, inmates may be disciplined for such behavior under the rules of the Department of Corrections (DOC). After a hearing, Chapter 33-22, *Florida Administrative Code* allows a disciplinary committee to impose disciplinary infraction penalties on the inmate, the harshest of which include the revocation of accrued gain-time or assignment to disciplinary confinement.

Disciplinary confinement areas are small, single-cell prisons within the prison, in which liberties are further restricted.

In addition to pursuing administrative penalties, the DOC may also attempt to prosecute the inmate under existing statutes. In order to do so, DOC refers the case and its investigation to the state attorney in the county where the offense occurred. The prosecutor evaluates the case in light of the criminal statutes and determines what charges to file in the case.

When there is a plea agreement to a misdemeanor as the highest ranking offense, or as has occurred, the jury returns a verdict of guilty of a misdemeanor as the highest ranking offense, the trial court is presented with a choice between imposing no sentence of incarceration, and imposing a county jail sentence, to be served following the end of the inmates previous sentences. Traditionally the misdemeanant is sentenced to county jail, county probation or both.

Section 944.17(3), F.S., requires that “only those persons who are convicted and sentenced in **circuit court** to a cumulative sentence of incarceration of 1 year or more . . . may be received into the department by the state correctional system.” As a consequence, courts have been constrained to sentence such a misdemeanant to the local county jail. Furthermore, the Sentencing Guidelines and Criminal Punishment Code set forth in ch. 921, F.S., is silent on sentencing an offender to state prison when a misdemeanor is the highest ranking offense.

The inmate is returned to state prison to serve out the remainder of the previously imposed sentence, but the county where the misdemeanor sentence is imposed places a detainer on that inmate. While the previously imposed sentence is being served, the inmate may be moved to another prison at the other end of the state. At the end of the sentence, DOC is compelled to transport the inmate back to the county where the misdemeanor sentence was imposed so the inmate can serve that sentence before DOC provides any of the services and supervision DOC is required to provide.

The sheriffs contend this places an extra burden on the counties by requiring them to house prisoners who come from other parts of the state to serve their sentences in a state or private prison which happens to be located in that different county.

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 240 would create a new paragraph numbered s. 944.17(3)(b), F.S., requiring any inmate incarcerated in the state correctional system who is convicted of any new crime committed during that incarceration to serve the sentence for the newly committed crime in the state correctional system, regardless of whether the new crime(s) is a felony or a misdemeanor. This bill would direct the sentencing court on how to sentence the prisoner when the highest ranking offense is a felony and when the highest ranking offense is a misdemeanor.

The provisions of this bill would take effect on July 1, 2001.

This bill amends s. 944.17, F.S., to create a new paragraph, s. 944.17(3)(b), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Corrections would have to absorb any additional cost of continuing to incarcerate inmates who are sentenced to less than one year for a misdemeanor committed while in prison. DOC would not feel any impact for those inmates sentenced for a felony committed while in prison, as those felons would be sentenced to DOC anyway. There could be some negative fiscal impact; however, that is indeterminate. It is anticipated that any increase in cost would be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.