

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: SB 1636

SPONSOR: Senator Crist

SUBJECT: Prisoner Defined/Corrections Code

DATE: February 6, 2002 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill redefines the term “prisoner” as used in the Florida Corrections Code (ch. 944, F.S.). The amendment classifies a person as a prisoner if he or she has been committed to any municipal or county jail or state prison, prison farm or penitentiary, or to the custody of the Department of Corrections, pursuant to lawful authority. The current law does not classify a person as a prisoner unless he or she has been convicted and sentenced by a court and committed as provided by law.

This bill substantially amends, creates, or repeals the following section of the Florida Statutes: 944.02.

II. Present Situation:

Section 944.02(6), F.S., defines the term “prisoner” for purposes of the Corrections Code. A prisoner is a person who is either (1) under arrest and in the lawful custody of a law enforcement official; (2) convicted and sentenced by any court and committed to any municipal or county jail or state prison, prison farm or penitentiary, as provided by law; or (3) convicted and sentenced by any court and committed to the custody of the Department of Corrections as provided by law.

Section 944.40, F.S., provides that it is a second degree felony for a prisoner to escape from confinement in a prison, jail, private correctional facility, road camp, or other penal institution operated by or under contract with the state, a county, or a municipality. The statute also criminalizes a prisoner’s escape while working upon the public roads or being transported to or from a place of confinement.

In *Villegas-Alen v. State*, 797 So.2d 1 (1st Dist. 2000), the First District Court of Appeal overturned the conviction of an alien who had escaped from civil detention in the Bay County Jail Annex pending deportation by the Immigration and Naturalization Service. The court found that Villegas-Alen's commitment to the jail was not the result of conviction and sentence by a court, and that he was not under arrest at the time of the escape. The court concluded that he was not a prisoner as defined in s. 944.02, F.S., and therefore could not be convicted of escape pursuant to s. 944.40, F.S.

III. Effect of Proposed Changes:

The bill would amend the definition of prisoner to include persons who are committed to state, county or municipal confinement facilities pursuant to lawful authority, regardless of whether the commitment resulted from conviction and sentence by a court. The amendment would address the type of situation presented in the *Villegas-Alen* case so that persons detained in correctional facilities pursuant to civil or administrative authority would be subject to prosecution for escape.

The amendment would not affect persons who are committed for treatment pursuant to the Baker Act (ss. 394.451- .4789, F.S.). Such persons would not fit within the broadened definition of prisoner because they are not committed to a municipal or county jail, state prison, prison farm, or penitentiary. Furthermore, a mentally ill person is not "confined" under the Baker Act. Therefore, a person who escapes from commitment under the Baker Act would not be subject to prosecution for escape unless there is an independent basis for the charge.

It is not anticipated that the expanded definition of prisoner could be construed to include sexually violent predators who are civilly committed to the custody of the Department of Children and Families pursuant to ss. 394.910- .931, F.S. These persons are not committed to a municipal or county jail, state prison, prison farm, or penitentiary. However, the sexually violent predator treatment programs have been housed contiguous with state prisons, and persons committed pursuant to the statute may be confined in county jails while awaiting civil hearings. It is possible that some might attempt to apply the definition of prisoner to sexually violent predators in furtherance of efforts to strike down the SVP civil commitment statute. As a practical matter, civilly committed sexually violent predators are already subject to prosecution for escape under the provisions of s. 394.927, 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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
