

II. Present Situation:

An offender may be adjudicated as a youthful offender by the sentencing court or may be classified as such by the department. To be eligible for youthful offender status, the offender:

- Must be at least 18 years of age or if under 18 must be prosecuted as an adult pursuant to ch. 985, F.S.;
- Must have committed the qualifying offense prior to reaching the age of 21; and
- Cannot have committed a capital or life felony, nor have been previously sentenced or classified as a youthful offender.

According to the department, almost two out of three of the inmates currently designated as youthful offenders were so designated by the department pursuant to s. 958.11(4) and (6), F.S., rather than by the sentencing court. The department may designate an inmate as a youthful offender if the inmate is under 24, sentenced to less than 10 years, and did not commit a capital or life felony. According to department's 2000-2001 Annual Report, as of June 30, 2001, approximately 4,318 prisoners were classified as youthful offenders.

The maximum youthful offender sentence is 6 years. This sentence can be divided between incarceration in a youthful offender facility and some form of probation or community control. The youthful offender sentence cannot exceed the statutory maximum allowed under the Criminal Punishment Code unless the sentencing judge provides written justification for a greater sentence.

The "youthful offender basic training program" described in s. 958.045, F.S., is of the nature of a boot camp, emphasizing rigorous physical training, basic education, health and life skills. Inmates who can be classified as youthful offenders are screened by the department for the basic training program. When an inmate is deemed eligible for assignment to the program, the department must write to the sentencing court to request approval of the assignment. Failure of the sentencing court to notify the department of approval or disapproval within 21 days is deemed to be an approval of the request.

The department promulgates rules of conduct for the basic training program. If the offender becomes unmanageable, the department can take away gain-time and place the offender in disciplinary confinement for up to 30 days. If the unmanageable offender has committed or threatened to commit a violent act, he or she can be terminated from the program and placed in the general prison population for the remainder of the sentence.

Following completion of the basic training program, s. 958.045(5)(c), F.S., requires the department to submit a report to the sentencing court on the offender's performance. The department also submits the report to the release authority pursuant to s. 958.045(8)(d), F.S. The release authority is required to establish a release date that is within 30 days of program completion. If the court finds that the offender's performance was satisfactory, it is required to issue an order modifying the sentence and placing the offender on probation. The term of probation includes placement in a community residential program. If the offender violates probation, the court may impose any sentence it could have imposed as a condition of probation.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 958.04(1)(c), F.S., to prohibit classification of an offender as a youthful offender if he or she has been found guilty of, or pled nolo contendere or guilty to, a capital felony, life felony, first-degree felony, second-degree felony involving the use or attempted use of force or violence, or is subject to s. 775.087(2) and (3), F.S. (minimum mandatory sentencing for committing certain felonies while possessing or using a firearm). Currently, only persons who have been found guilty of a capital or life felony are ineligible for youthful offender classification on the basis of the crime committed.

Sections 958.04(2)(a) and (c), F.S., are amended to extend the maximum sentence for a youthful offender to 8 years, including any period of incarceration and period of community control or probation added together. The current maximum sentence is 6 years.

Section 958.04(4), F.S., which expressed an emergency need to create a basic training program due to severe prison overcrowding, is deleted as obsolete. This deletion will have no impact upon the existing basic training program.

Sections 2 through 4 of the bill reenact ss. 958.03(5), 958.046, and 958.11(4), F.S., respectively, in order to incorporate the amendments made to s. 958.04, F.S., by Section 1 of the bill.

Section 5 of the bill amends s. 951.231(1)(c), F.S., to change a reference concerning the basic training program from a section which is to be deleted to a valid reference.

Section 6 of the bill amends s. 958.045(2), F.S., to provide that a department request to place a youthful offender in the basic training program will be considered as denied if the sentencing court does not notify the department of approval within 21 days of submission of the request. This reverses the current statutory scheme by which the request is considered to be approved if the court does not notify the department of denial within the 21 day time period.

Section 958.045(5)(a), F.S., is amended to provide the department with additional authority to deal with an offender who becomes unmanageable in the basic training program. The amendment will authorize the department to revoke gain time, terminate the offender from the program, and return the offender to the general population of inmates in the correctional system to complete his or her sentence. The department is currently permitted to revoke gain time and place an unmanageable offender in disciplinary confinement for up to 30 days, with termination from the program permitted only if a violent act has been threatened or committed. With this change, the department would have authority to terminate the offender from the program or to take lesser disciplinary measures, such as restriction of privileges, under rules adopted pursuant to s. 958.045(b), F.S.

The effect of amendment of the phrase “the department may place the offender in the general population to complete the remainder of the offender’s sentence” to “the department may . . . return the offender to the general population of inmates in the correctional system to complete the remainder of the offender’s sentence” is unclear. It is possible that this will be interpreted to preclude the department from placing an offender who is terminated from the basic training program in a specially-designated youthful offender facility.

This section of the bill also amends s. 958.045(5)(c), F.S., to provide that a youthful offender can be placed on either community control or probation upon successful completion of the basic training program, and makes the same amendment to s. 958.045(6)(b), F.S., for offenders who are released from a community residential program. Offenders released from a community residential program may also be placed on a type of postrelease supervision other than probation or community control.

Section 958.045(8)(d), F.S., is amended to provide that the release authority cannot set a release date upon completion of the basic training program until the court issues an order modifying the offender's sentence. The release date must be within 20 days of receipt of the court order. This will prevent the possibility that a release order would be issued prior to the court modifying the offender's sentence.

The portion of s. 958.045(8)(a), F.S., that provides authority for the department to classify an offender as a youthful offender is moved to s. 958.045(8)(b), F.S., for purposes of continuity. This is a stylistic change with no substantive impact.

Lastly, s. 958.045(10), F.S., is deleted as obsolete. The subsection expressed an emergency need to create a basic training program due to serious and violent crime, and its deletion will have no impact upon the existing basic training program.

Section 7 of the bill provides an effective date of October 1, 2002.

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 exclusion from youthful offender eligibility of offenders who commit first degree felonies, second degree violent felonies, and certain felonies while in possession of a firearm could result in longer sentences for some offenders who would be classified as youthful offenders under current law. The Department of Corrections is compiling information on the impact of the expanded exclusion if it were applied to the current youthful offender population.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Criminal Justice:

Deletes the prohibition against classifying certain second-degree felons as youthful offenders.