

**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 Committee on Criminal Justice

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BILL: CS/SB 1206

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: State Inmates

DATE: January 18, 2018

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Fav/CS
2.			ACJ	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1206 amends s. 945.091, F.S., authorizing the Department of Corrections (DOC) to consider an inmate that would not otherwise qualify for participation in work release due to a higher custody level or other risk factors for work release with electronic monitoring. The DOC must administer a risk assessment tool to determine an inmate's eligibility for work release with an electronic monitoring device.

The bill also authorizes an inmate to participate in a supervised community release program (Program) up to 90 days before the inmate's tentative release date as an extension of the inmate's confinement. The DOC must also administer a risk assessment tool to determine eligibility for this program. The Program must include electronic monitoring and community control as defined in s. 948.001, F.S.

An inmate's participation in the Program may be terminated by the DOC if the inmate fails to comply with any of the terms of the Program as proscribed by the rules promulgated under this act. If an inmate is terminated from the supervision, he or she must be recommitted to the DOC.

If there is reasonable grounds to believe that the inmate violated his or her supervised community release, the bill authorizes a law enforcement officer or probation officer to arrest the inmate in accordance with s. 948.06, F.S. An alleged violation of the conditions of the supervised community release program must be reported to a correctional officer for disposition of disciplinary charges as proscribed in the DOC rules.

The bill specifies that an inmate who participated in the Program is still considered to be in confinement for purposes of earning and losing gain-time pursuant to s. 944.275, F.S. This also includes the prohibition on earning gain-time in an amount that results in serving less than 85 percent of the imposed sentence. However, the inmate may not be counted as part of the inmate population and the approved community-based housing in which the inmate lives cannot be counted in capacity figures for the prison system.

Lastly, the bill creates s. 948.33, F.S., authorizing a state inmate who has an unserved violation of probation or violation of community control arrest warrant to file a state prisoner's notice of unserved warrant. The bill provides a process for confirming the existence of such unserved warrant, and if confirmed, for the transportation of the inmate to the county at issue for prosecution and resolution of the outstanding warrant.

The bill likely has a negative indeterminate fiscal impact (i.e. a decrease in prison beds) on the DOC. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2018.

## **II. Present Situation:**

The Criminal Punishment Code<sup>1</sup> (Code) applies to sentencing for felony offenses committed on or after October 1, 1998.<sup>2</sup> The permissible sentence (absent a downward departure) for an offense ranges from the calculated lowest permissible sentence as determined by the Code to the statutory maximum for the primary offense. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is five years.<sup>3</sup>

The sentence imposed by the sentencing judge reflects the length of actual time to be served, lessened only by the application of gain-time,<sup>4</sup> and may not be reduced in an amount that results in the defendant serving less than 85 percent of his or her term of imprisonment.<sup>5</sup>

### **Extension on the Limits of Confinement**

There are a limited number of instances where an inmate who is in the custody of the DOC may continue serving his or her sentence outside the physical walls of a prison. When a reasonable belief exists that an inmate will adhere to conditions placed upon him or her, s. 945.091, F.S., authorizes the DOC to allow an inmate to leave the confines of a physical facility unaccompanied for a specified period of time to:

- Visit a:
  - Dying relative or attend a funeral of a relative;

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<sup>1</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>2</sup> Section 921.0022, F.S.

<sup>3</sup> Section 775.082, F.S.

<sup>4</sup> Section 944.275, F.S., provides for various types of incentive and meritorious gain-time.

<sup>5</sup> Section 921.002(1), F.S.

- Specified location to arrange for employment or for a suitable residence for use upon release;
- Specified place to aide in the successful transition back into the community;
- Specifically designated location for any other compelling reason;<sup>6</sup>
- Work at paid employment;<sup>7</sup>
- Participate in an educational or training program;<sup>8</sup>
- Voluntarily serve a public or nonprofit agency or faith-based service group in the community;<sup>9</sup> or
- Participate in a residential or nonresidential rehabilitative program.<sup>10</sup>

The DOC must perform an investigation to determine whether the inmate is suitable for consideration of extension of his or her confinement prior to being approved for one of the provisions described above.<sup>11</sup>

### ***Work Release***

An inmate who is approved for participation in work release must be in community custody status<sup>12</sup> and be within three years of their release date.<sup>13</sup> These inmates are housed at the work release center during their participation.<sup>14</sup> Certain inmates are prohibited from participating in work release, regardless of current custody level.<sup>15</sup>

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<sup>6</sup> Section 945.091(1)(a), F.S. An inmate released from the custody of a facility under this subsection must return to the same or another facility as designated by the DOC. *See also* Department of Corrections, *Senate Bill 1206 Analysis*, at p. 3 (January 8, 2018) (on file with the Senate Committee on Criminal Justice)[hereinafter cited as “The DOC SB 1206 Analysis”].

<sup>7</sup> This provision is commonly referred to as “Work Release.” Section 945.091(1)(b), F.S., further provides that this form of release occurs while the inmate continues as an inmate of the institution or facility in which the inmate is confined. The only time in which the inmate is released unaccompanied is during the hours of his or her employment, education, training, or service and traveling to and from such approved activity. An inmate is permitted to travel to and from the place of employment, education, or training by walking, bicycling, or using public transportation or transportation that is provided by a family member or employer.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Section 945.091(1)(c), F.S. The treatment program must be operated by a public or private nonprofit agency, including faith-based service groups, with which the DOC has contracted for the treatment of such inmate. The provisions of ss. 216.311 and 287.057, F.S., must apply to all contracts considered under this provision. The DOC must ensure each agency provides appropriate supervision of inmates participating in such program.

<sup>11</sup> Section 945.091(1), F.S.

<sup>12</sup> Custody level is used to determine an inmate’s placement in appropriate facilities and programming and is associated with the level of risk that an inmate poses to staff and inmates. Community custody is defined by the DOC to apply to inmates eligible for placement at a community residential facility. *See* Electronic mail from Scotti Vaughan, Deputy Director of Legislative Affairs, Department of Corrections, RE: Community Custody (January 18, 2018) (on file with the Senate Criminal Justice Committee).

<sup>13</sup> Department of Corrections, *Frequently Asked Questions*, available at <http://www.dc.state.fl.us/oth/faq.html> (last visited January 14, 2018). *See also* Rule 33-601.602, F.A.C.

<sup>14</sup> *Id.* Work release centers do not have perimeter fences and inmates must remain at the work release center when not working or attending programs such as Alcoholics Anonymous (AA).

<sup>15</sup> Such inmates include, but are not limited to, those that have a current or prior conviction for a sex offense; murder or attempted murder; aggravated manslaughter of an elderly or disabled person or a child; attempted manslaughter of an elderly or disabled person or a child; aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic; attempted aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic; and murder of an unborn child or attempted murder of an unborn child. Rule 33-601.602, F.A.C.

Inmates participating in work release must save part of their earnings for when they are released, in order to pay toward victim restitution, and for room and board.<sup>16</sup> More than 3,000 inmates participate in Florida's work release programs annually, with about 3.5 percent of the prison population enrolled at any given time.<sup>17</sup>

### ***Supervised Community Release Program***

Prior to July 1, 1996, a fourth provision, known as the Supervised Community Release Program (SCRCP), existed that allowed inmates to be released on an extension of confinement to participate in a rehabilitative community reentry program on conditional release.<sup>18</sup> This release was for a period of no more than 90 days prior to the termination of his or her confinement. The inmate was released and placed on community supervision, but was not considered to be in the custody or care of the DOC or in confinement. If the inmate did not demonstrate sufficient progress with the reentry program, the DOC was able to terminate the inmate's participation and return the inmate to the prior institution or a new facility as designated by the DOC.<sup>19</sup>

### **Gain-time**

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.<sup>20</sup> An inmate is not eligible to earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.<sup>21</sup>

Basic gain-time, which automatically reduced an inmate's sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994.<sup>22</sup> The only forms of gain-time that can currently be earned are:

- Incentive gain-time, which is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs;<sup>23</sup>
- Meritorious gain-time, which is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate;<sup>24</sup> and

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<sup>16</sup> *Supra* at note 12.

<sup>17</sup> *Id.*

<sup>18</sup> Section 945.091(1)(d), F.S. (1995). This paragraph was repealed in ch. 96-312, L.O.F.

<sup>19</sup> *Id.*

<sup>20</sup> Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence are not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits inmates committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.

<sup>21</sup> Section 944.275(4)(f), F.S.

<sup>22</sup> Chapter 93-406, L.O.F.

<sup>23</sup> Section 944.275(4)(b), F.S. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.

<sup>24</sup> Section 944.275(4)(c), F.S. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.

- Educational achievement gain-time, which is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.<sup>25</sup>

The procedure for applying gain-time awards to an inmate's sentence is dependent upon the calculation of a "maximum sentence expiration date" and a "tentative release date." The tentative release date may not be later than the maximum sentence expiration date.<sup>26</sup> The maximum sentence expiration date represents the date when the sentence or combined sentences imposed on a prisoner will expire.<sup>27</sup> To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.<sup>28</sup>

The tentative release is the date projected for the prisoner's release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.<sup>29</sup> Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.<sup>30</sup>

### Community Control

Section 948.001(3), F.S., defines "community control" to mean a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads.<sup>31</sup> The community control program is rigidly structured and designed to accommodate offenders who, in the absence of such a program, will be committed to the custody of the DOC or a county jail.<sup>32</sup>

A person on community control (controlee) has an individualized program and is restricted to his or her home or noninstitutional residential placement, unless working, attending school, performing public service hours, participating in treatment or another special activity that has been approved in advance by his or her parole and probation officer.<sup>33</sup>

Conditions of community control are determined by the court when the offender is placed on such supervision. However, there are standard conditions of community control that all controlees must comply with, including, but not limited to:

- Specified contact with the parole and probation officer;

<sup>25</sup> Section 944.275(4)(d), F.S.

<sup>26</sup> Section 944.275(3)(c), F.S.

<sup>27</sup> Section 944.275(2)(a), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Section 944.275(3)(a), F.S.

<sup>30</sup> *Id.* See also s. 944.275(4)(b), F.S.

<sup>31</sup> Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

<sup>32</sup> Section 948.10(1), F.S.

<sup>33</sup> *Id.* See also Florida Department of Corrections, *Succeeding on Community Control*, available at <http://www.dc.state.fl.us/oth/cc/Succeeding-on-Community-Control.pdf> (last visited on January 10, 2018). A Community Control Offender Schedule and Daily Activity Log must be submitted weekly with a proposed schedule for the week and the parolee's officer reviews such schedule and either approves or denies the schedule. Additionally, a person is required to provide an hourly accounting of his or her whereabouts for the previous week to verify any deviations from the pre-approved schedule.

- Confinement to an agreed-upon residence during hours away from employment and public service activities;
- Mandatory public service;
- Supervision by the DOC through an electronic monitoring device or system;<sup>34</sup> and
- The standard conditions of probation<sup>35</sup> set forth in s. 948.03, F.S.<sup>36</sup>

A person may be placed on additional terms of supervision as part of his or her community control sentence.<sup>37</sup>

### **Violations of Probation or Community Control**

If an offender violates the terms of his or her probation or community control, the supervision can be revoked in accordance with s. 948.06, F.S.<sup>38</sup> A violation of probation (VOP) or violation of community control (VOCC) can be the result of a new violation of law or a technical violation of the conditions imposed. If reasonable grounds exist to believe that an offender on probation or community control has violated his or her terms of supervision in a material respect, an offender may be arrested without a warrant by a:

- Law enforcement officer who is aware of the inmate's supervised community release status;
- Probation officer; or
- County or municipal law enforcement officer upon request by a probation officer.<sup>39</sup>

The offender must be returned to the court granting such probation or community control.<sup>40</sup> Additionally, the committing court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the offender.<sup>41</sup>

Upon the filing of an affidavit alleging a VOP or a VOCC and following the issuance of a warrant for such violation, a warrantless arrest, or a notice to appear, the period of supervision is tolled until the court enters a ruling on the VOP or the VOCC.<sup>42</sup> The probation officer is

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<sup>34</sup> An electronic monitoring device (EM) is a tamper-resistant device worn on the body that monitors the location of a person at all times of the day. The monitoring agency is notified for various violations of the terms of supervision, such as if the person travels to a location he or she is not authorized to be or if the device is removed by the person. EM systems can be either "passive" or "active" and are typically operated through radio frequency or global positioning system (GPS) monitoring. Office of Juvenile Justice and Delinquency Prevention, *Home Confinement and Electronic Monitoring*, October, 2014, available at [https://www.ojjdp.gov/mpg/litreviews/Home\\_Confinement\\_EM.pdf](https://www.ojjdp.gov/mpg/litreviews/Home_Confinement_EM.pdf) (last visited January 10, 2018).

<sup>35</sup> Section 948.001(9), F.S., defines "probation" to mean a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03, F.S. Some of the standard conditions of probation provided for in s. 948.03, F.S., include, but are not limited to, for the offender to report to the probation officer as directed, permit the probation officer to visit him or her at his or her home or elsewhere, work at suitable employment, live without violating any law, and make restitution to the aggrieved party for the damage or loss caused by his or her offense as determined by the court.

<sup>36</sup> Section 948.101(1), F.S.

<sup>37</sup> Section 948.101(2), F.S.

<sup>38</sup> Section 948.10(3), F.S.

<sup>39</sup> Section 948.06(1)(a), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Section 948.06(1)(b), F.S. The committing trial court judge may also issue a notice to appear if the controlee has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as enumerated in s. 948.06(8)(c), F.S.

<sup>42</sup> Section 948.06(1)(f), F.S.

permitted to continue to supervise any offender who remains available to the officer for supervision until the supervision expires pursuant to the order of supervision or until the court revokes or terminates the supervision, whichever comes first.<sup>43</sup>

The court must advise the offender of the allegations included in the VOP or the VOCC and may revoke, modify, or continue the supervision if the offender admits the charge or, if, through a hearing, the court finds the violation to be true.<sup>44</sup> If supervision is revoked, the court must adjudge the offender guilty of the offense charged (if not previously adjudicated guilty) and impose any sentence which it might have originally imposed before placing the offender into supervision.<sup>45</sup>

### ***Unserved Arrest Warrants for Violations of Probation or Community Control***

When the VOP or the VOCC stems from an offender committing a new violation of law, two criminal proceedings commence. The first is the proceeding involving the new offense that was committed, which is initiated in the county where the new law violation occurred. The second is the VOP or the VOCC proceeding, which is initiated in the county where a VOP or VOCC arrest warrant is issued for the violation.<sup>46</sup>

While rare, there have been instances in which a probationer has committed and been convicted of a new offense and sentenced to state prison, during which time, the VOP or VOCC proceeding is still pending (e.g., this may occur if the new offense occurred in a county other than the one in which the offender was being supervised). In 2017, the DOC reviewed a similar bill, HB 1091 (2017), and estimated that approximately 20 inmates were incarcerated with unserved probation warrants.<sup>47</sup>

In such instances, a detainer may be filed against the inmate for the VOP or the VOCC, which postpones the VOP or VOCC proceedings until the inmate is released from prison. An inmate's custody level is affected if they have a pending VOP or VOCC warrant, which can bar them from being housed in certain facilities and participating in programs.<sup>48</sup>

Currently, inmates do not have a right to compel the commencement of proceedings for a VOP or a VOCC. This was confirmed in *Chapman v. State*, where the court held that the entity seeking prosecution is the entity that has a right to serve an arrest warrant, and that a prisoner has no right to compel the sheriff to arrest someone in prison being held on a detainer for a VOP or a VOCC.<sup>49</sup>

Furthermore, *Chapman* sought to compel the trial court to hold a hearing on the probation violation. A court has no ministerial duty to conduct a hearing on an affidavit alleging a violation

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<sup>43</sup> *Id.*

<sup>44</sup> Section 948.06(2)(a), (d), and (e), F.S.

<sup>45</sup> Section 948.06(2)(b), F.S.

<sup>46</sup> A VOP or VOCC arrest warrant will always be issued in the same county as the offender was originally placed on supervision.

<sup>47</sup> Department of Corrections, *Agency Analysis for HB 1091* (2017), March 9, 2017 (hereinafter cited as "The DOC HB 1091 (2017) Analysis" (on file with the Senate Criminal Justice Committee).

<sup>48</sup> *Id.*

<sup>49</sup> *Chapman v. State*, 910 So.2d 940, 941–42 (Fla. 5th DCA 2005).

of probation.<sup>50</sup> A probationer is only entitled to be heard on a VOP or a VOCC after his arrest and return to the court that granted the probation.<sup>51</sup>

### III. Effect of Proposed Changes:

#### Work Release

The bill amends s. 945.091, F.S., authorizing the DOC to consider an inmate that would not otherwise qualify for participation in work release due to a higher custody level or other risk factors for work release with electronic monitoring. The DOC is required to administer a risk assessment tool to determine an inmate's eligibility for work release with an electronic monitoring device.

#### Supervised Community Release

Further, the bill amends s. 945.091, F.S., allowing an inmate to participate in a supervised community release program (Program) as an extension of the inmate's confinement, similar to the former SCRCP discussed above. The supervised community release term may begin 90 days before the inmate's provisional or tentative release date and must include electronic monitoring and community control as defined in s. 948.001, F.S. The bill requires the DOC to administer a risk assessment tool to determine an inmate's eligibility for this program as well. The bill authorizes the DOC to create rules to implement the supervised community release program created in the act.

The DOC is authorized to terminate the inmate's participation in the program if he or she fails to comply with any of the terms of the Program as proscribed by rule. If an inmate is terminated from the supervision, he or she must be recommitted to the same institution or another institution designated by the DOC.

The bill allows a law enforcement officer or probation officer to arrest an inmate without a warrant in accordance with s. 948.06(1), F.S., if there are reasonable grounds to believe the inmate violated the terms of the Program. A law enforcement officer or probation officer that arrests an inmate for a violation of the conditions of the supervised community release program is required to report the inmate's alleged violations to a correctional officer for disposition of disciplinary charges as proscribed in the DOC rules.

The bill provides that an inmate released on the Program in accordance with this provision is eligible to earn and lose gain-time as proscribed in law and rule, which includes the prohibition on an inmate earning or receiving gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.<sup>52</sup> However, the bill provides the inmate is not counted as part of the inmate population and the approved community-based housing in which the inmate lives is not counted in capacity figures for the prison system.

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<sup>50</sup> *Id.* at p. 942.

<sup>51</sup> *Id.* at p. 941-942. *See also Norman v. State*, 900 So.2d 702 (Fla. 2d DCA 2005).

<sup>52</sup> *See* s. 944.275(4)(f), F.S.



The DOC reports that there are approximately 770 inmates assigned to a community facility who have between 10-90 days remaining on their sentence and an additional 580 community custody inmates who have not been to work release who are within this time frame to release.<sup>53</sup>

### **Arrest Warrants**

The bill creates s. 948.33, F.S., authorizing a state inmate who has an unserved VOP or VOCC arrest warrant to file a state prisoner's notice of unserved warrant. Notice must be filed in the circuit court of the judicial circuit in which the unserved warrant was issued and served on the state attorney.

Upon receipt, the state attorney must schedule the notice for a status hearing with the judge within 90 days. The state prisoner may not be transported for this hearing. In the case that an unserved warrant exists, the court must enter an order for the inmate to be transported to the issuing county's jail within 30 days of the status hearing for prosecution. The court must then send the order to the county sheriff for execution.

This portion of the bill will result in fewer inmates being prevented from participating in transitional and reintegration programs or from having detainers for active warrants upon completion of their prison sentence.

The bill is effective October 1, 2018.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

This bill is not affected by the restrictions in the State Constitution which limit the Legislature's authority to impose mandates on counties and municipalities because the bill relates to criminal laws.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

None.

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<sup>53</sup> The DOC SB 1206 Analysis, p. 4.

**B. Private Sector Impact:****Extension on Confinement**

The bill authorizes the DOC to release a specified inmate into the community on work release with an electronic monitoring device or on supervised release up to 90 days before the end of his or her sentence. This will provide private companies the opportunity to hire an inmate earlier than without the act.

**Unserviced Arrest Warrants**

The bill may get prisoners back into the workforce more efficiently. Many transitional programs are not open to prisoners with open warrants, so resolving the warrants may help these prisoners re-integrate into society.

**C. Government Sector Impact:**

The Criminal Justice Estimating Conference has not heard the bill at this time.

**Extension on Confinement**

The DOC reports that the bill will likely have a negative indeterminate prison bed impact (i.e. an indeterminate decrease in prison beds). The DOC states that the number is indeterminate for several reasons, including not being able to quantify how many inmates will be interested in the program and of those inmates, how many can obtain proper housing placements to warrant release.<sup>54</sup>

The current per diem rate for electronic monitoring is \$4.90 for inmates placed on electronic monitoring who are assigned to community release centers.<sup>55</sup> The current variable per diem rate is \$15.81, which is associated with the individual inmate care costs such as medical, food, inmate clothing, and personal care items.<sup>56</sup> The variable per diem rate applies across all institutions for inmate specific care.<sup>57</sup>

Therefore, for inmates released on work release with an electronic monitoring device, the DOC will likely pay the electronic monitoring per diem in addition to the variable per diem, rather than the variable institution per diem.

Additionally, for inmates released to the Program on electronic monitoring, the DOC will likely pay the electronic monitoring per diem rate, rather than the variable per diem rate, for the 90 days with which the inmate is out in the community instead of housed in an institution.

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<sup>54</sup> The DOC SB 1206 Analysis, p. 4.

<sup>55</sup> *Id.* at p. 4-6.

<sup>56</sup> Department of Corrections, *Annual Report Fiscal Year 2015-2016*, p. 8, available at [http://www.dc.state.fl.us/pub/annual/1516/FDC\\_AR2015-16.pdf](http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf) (last visited January 16, 2018).

<sup>57</sup> Electronic mail from Kim Banks, Chief Financial Officer, Department of Corrections, RE: Work release per diem (January 16, 2018) (on file with the Senate Criminal Justice Committee).

## Unserviced Arrest Warrants

The Criminal Justice Impact Conference reviewed a similar bill, HB 1091 (2017), and determined the bill would have a negative indeterminate impact on the prison population.<sup>58</sup>

Further, the bill requires the county, upon confirmation of an outstanding arrest warrant, to transport an inmate for hearings to resolve such warrants. To the extent that this increases the frequency of transports, county and state transportation costs may rise. Additionally, to the extent that the bill results in additional hearings, the workload of the court, public defenders, and state attorneys may be marginally increased.

Disposing of an unserved violation while an offender is already in custody will reduce the likelihood that the offender will be resentenced to a term of supervision upon disposition of the supervision violation warrant. The DOC anticipated that resolving prisoners' warrants will result in them being released from the criminal justice system more quickly, as more prisoners will begin serving concurrent sentences for probation violations.<sup>59</sup>

### VI. Technical Deficiencies:

None.

### VII. Related Issues:

None.

### VIII. Statutes Affected:

This bill substantially amends section 945.091 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 16, 2018:

The committee substitute:

- Amends s. 945.091, F.S., to:
  - Authorize the DOC to release a higher custody inmate, who would otherwise not be eligible, on work release with an electronic monitoring device;
  - Establish a Supervised Community Release Program that allows an inmate to be released for the last 90 days of his or her sentence on community control and an electronic monitoring device; and
  - Allow an officer to arrest an inmate who is on supervised community release if the inmate is not complying with the terms of the program.

<sup>58</sup> “Negative Indeterminate” means a reduction in the average daily prison population by an unquantifiable amount.

<sup>59</sup> The DOC HB 1091 (2017) Analysis.

- Creates s. 948.33, F.S., to:
  - Establish a process by which an inmate who has an unserved violation of probation or community control warrant can notify the issuing county for the purpose of initiating the resolution of such warrant; and
  - Require the inmate to be transported to the county in which an outstanding warrant is confirmed to exist for the initiation of proceedings to resolve such warrant.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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