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LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Bradley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 921.188, Florida Statutes, is amended to  
read:

921.188 Placement of certain state inmates in local  
detention facilities.—

(1) For offenses committed on or after ~~Effective~~ June 17,  
1993 and before July 1, 2018, notwithstanding the provisions of



11 ss. 775.08, former 921.001, 921.002, 921.187, 944.02, and  
12 951.23, or any other law to the contrary, a person whose  
13 presumptive sentence is 1 year and 1 day up to 22 months in a  
14 state correctional institution may be placed by the court into  
15 the custody of a local detention facility as a condition of  
16 probation or community control for a felony offense contained in  
17 sentencing guidelines categories five through nine contained in  
18 Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, or  
19 similar levels described in s. 921.0022, except for such person  
20 whose total sentence points are greater than 52 or less than 40.  
21 The court may place such person for the duration of the  
22 presumptive sentence. The court may only place a person in a  
23 local detention facility pursuant to this section if there is a  
24 contractual agreement between the chief correctional officer of  
25 that county and the Department of Corrections. The contract may  
26 include all operational functions, or only housing wherein the  
27 department would provide staffing and medical costs. The  
28 agreement must provide for a per diem or partial per diem  
29 reimbursement for each person placed under this section, which  
30 is payable by the Department of Corrections for the duration of  
31 the offender's placement in the facility. The full per diem  
32 reimbursement may not exceed the per diem published in the  
33 Department of Corrections' most recent annual report for total  
34 department facilities. This section does not limit the court's  
35 ability to place a person in a local detention facility for less  
36 than 1 year.

37 (2) (a) For offenses committed on or after July 1, 2018,  
38 notwithstanding ss. 775.08 and 921.0024 or any other provision  
39 of law, a court may sentence an offender to a term in the county



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40 jail in the county where the offense was committed for up to 24  
41 months if the offender meets all of the following criteria:

42 1. The offender's total sentence points score, as provided  
43 in s. 921.0024, is more than 44 points but no more than 60  
44 points.

45 2. The offender's primary offense is not a forcible felony  
46 as defined in s. 776.08, except that an offender whose primary  
47 offense is a third degree felony under chapter 810 is eligible  
48 to be sentenced to a county jail under this subsection.

49 3. The offender's primary offense is not punishable by a  
50 minimum mandatory sentence of more than 24 months.

51 (b) As a condition of the sentence, the court shall order  
52 that an offender will:

53 1. Be under the jurisdiction of the Department of  
54 Corrections.

55 2. Serve the remainder of his or her sentence in a  
56 Department of Corrections facility in the event a contract  
57 between the chief correctional officer and the Department of  
58 Corrections expires, terminates, or is not renewed during an  
59 offender's sentence term.

60 (c) An offender sentenced to county jail under this section  
61 may not receive gain-time or other sentence credit in an amount  
62 that would cause the offender's sentence to expire, end, or  
63 terminate, or that would result in the offender's release, prior  
64 to serving a minimum of 85 percent of the sentence imposed.

65 (d)1. A court may only sentence an offender to a county  
66 jail pursuant to this section if there is a contractual  
67 agreement between the chief correctional officer of that county  
68 and the Department of Corrections.



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69       2. If the chief correctional officer of a county requests  
70 the Department of Corrections to enter into a contract that  
71 allows offenders to be sentenced to the county jail pursuant to  
72 subsection (1), subject to the restrictions of this paragraph  
73 and subsections (4) and (7), the Department of Corrections must  
74 enter into such a contract. The contract must specifically  
75 establish the maximum number of beds and the validated per diem  
76 rate. The contract must provide for per diem reimbursement for  
77 occupied inmate days based on the contracting county's most  
78 recent annual adult male custody or adult female custody per  
79 diem rates, not to exceed \$60 per inmate.

80       (e) A contract under this section is contingent upon a  
81 specific appropriation in the General Appropriations Act.  
82 Contracts must be awarded by the Department of Corrections on a  
83 first-come, first-served basis up to the maximum appropriation  
84 allowable in the General Appropriations Act for this purpose.  
85 The maximum appropriation allowable consists of funds  
86 appropriated in or transferred to the specific appropriation in  
87 the Inmates Sentenced to County Jail appropriation category.  
88 Prior to any transferred appropriation under this section, the  
89 Inmates Sentenced to County Jail appropriation category provides  
90 for estimated incremental appropriation for county jail beds  
91 contracted under this section in excess of the Department of  
92 Corrections' per diem for adult male and female inmates.

93       (f) The Department of Corrections shall transfer funds  
94 pursuant to s. 216.177 from other appropriation categories  
95 within the Adult Male Custody Operations or Adult and Youthful  
96 Offender Female Custody Operations budget entities to the  
97 Inmates Sentenced to County Jail appropriation category in an



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98 amount necessary to satisfy the requirements of each executed  
99 contract, but not to exceed the Department of Corrections'  
100 average total per diem published for the preceding fiscal year  
101 for adult male custody or adult and youthful offender female  
102 custody inmates for each county jail bed contracted.

103 (g) The Department of Corrections shall assume maximum  
104 annual value of each contract when determining the full use of  
105 funds appropriated to ensure that the maximum appropriation  
106 allowable is not exceeded.

107 (h) All contractual per diem rates under this section and  
108 all per diem rates used by the Department of Corrections must be  
109 validated by the Auditor General before payments are made.

110 Section 2. This act shall take effect July 1, 2018

111  
112 ===== T I T L E A M E N D M E N T =====

113 And the title is amended as follows:

114 Delete everything before the enacting clause  
115 and insert:

116 A bill to be entitled  
117 An act relating to sentencing; amending s. 921.188,  
118 F.S.; authorizing a court to sentence certain  
119 offenders to a county jail for up to 24 months if the  
120 county has a contract with the Department of  
121 Corrections; requiring sentencing conditions;  
122 prohibiting an offender from receiving gain-time or  
123 other sentence credit that would result in the  
124 offender serving less than 85 percent of the  
125 offender's sentence; providing contractual  
126 requirements; requiring specific appropriations;



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127 providing for such appropriations; requiring  
128 validation of per diem rates; providing an effective  
129 date.