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576-01831-18

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to housing of state inmates; amending s. 921.188, F.S.; authorizing a court to sentence offenders to a county jail for up to 24 months under certain circumstances for offenses committed after a specified date; requiring sentencing conditions; prohibiting an offender from receiving gain-time or other sentence credit that would result in the offender serving less than 85 percent of his or her sentence; providing applicability for inmates sentenced to a county jail; providing that contractual agreements between a county's chief correctional officer and the Department of Corrections are contingent upon an appropriation; providing contractual requirements; requiring specific appropriations; providing for such appropriations; requiring the validation of per diem rates before payments are made; creating s. 944.172, F.S.; authorizing the department to transfer inmates who have less than 24 months remaining on a term of imprisonment to county jail under certain circumstances; defining the term "terminally ill inmate"; authorizing the department to transfer a terminally ill inmate to county jail under certain circumstances; providing that an inmate transferred to county jail earns the same or substantially equivalent opportunities for gain-time or sentence credit;



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28 providing an exception; prohibiting an inmate from
29 receiving gain-time or other sentence credit that
30 would result in the inmate serving less than 85
31 percent of his or her sentence; authorizing an inmate
32 to be transferred to a county jail only if there is a
33 contractual agreement between the county's chief
34 correctional officer and the department; requiring the
35 department to enter into a contract with a county's
36 chief correctional officer under certain
37 circumstances; providing contractual requirements;
38 authorizing an inmate to request to be transferred
39 back to a department facility under certain
40 circumstances; requiring the transfer of an inmate
41 back to a department facility if a contract expires,
42 terminates, or is not renewed; providing that
43 contracts are contingent upon an appropriation;
44 requiring specific appropriations; providing for such
45 appropriations; requiring the validation of per diem
46 rates before payments are made; authorizing the
47 department to adopt rules; amending s. 947.149, F.S.;
48 excluding a terminally ill inmate transferred to a
49 county jail from the review and approval process
50 conducted by the Commission on Offender Review;
51 providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

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



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57 921.188 Placement of certain state inmates in local
58 detention facilities.-

59 (1) For offenses committed on or after ~~Effective~~ June 17,
60 1993 and before July 1, 2018, notwithstanding the provisions of
61 ss. 775.08, former 921.001, 921.002, 921.187, 944.02, and
62 951.23, or any other law to the contrary, a person whose
63 presumptive sentence is 1 year and 1 day up to 22 months in a
64 state correctional institution may be placed by the court into
65 the custody of a local detention facility as a condition of
66 probation or community control for a felony offense contained in
67 sentencing guidelines categories five through nine contained in
68 Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, or
69 similar levels described in s. 921.0022, except for such person
70 whose total sentence points are greater than 52 or less than 40.
71 The court may place such person for the duration of the
72 presumptive sentence. The court may only place a person in a
73 local detention facility pursuant to this section if there is a
74 contractual agreement between the chief correctional officer of
75 that county and the Department of Corrections. The contract may
76 include all operational functions, or only housing wherein the
77 department would provide staffing and medical costs. The
78 agreement must provide for a per diem or partial per diem
79 reimbursement for each person placed under this section, which
80 is payable by the Department of Corrections for the duration of
81 the offender's placement in the facility. The full per diem
82 reimbursement may not exceed the per diem published in the
83 Department of Corrections' most recent annual report for total
84 department facilities. This section does not limit the court's
85 ability to place a person in a local detention facility for less



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86 than 1 year.

87 (2) (a) For offenses committed on or after July 1, 2018,
88 notwithstanding ss. 775.08 and 921.0024 or any other provision
89 of law, a court may sentence an offender to a term in the county
90 jail in the county where the offense was committed for up to 24
91 months if the offender meets all of the following criteria:

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

95 2. The offender's primary offense is not a forcible felony
96 as defined in s. 776.08, except that an offender whose primary
97 offense is a felony of the third degree under chapter 810 is
98 eligible to be sentenced to a county jail under this subsection.

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

101 (b) As a condition of the sentence, the court shall order
102 that the offender:

103 1. Be placed under the jurisdiction of the Department of
104 Corrections;

105 2. Serve the remainder of his or her sentence in a
106 Department of Corrections facility in the event a contract
107 between the chief correctional officer and the Department of
108 Corrections expires, terminates, or is not renewed during an
109 offender's sentence term; and

110 3. May request to be transferred to a Department of
111 Corrections facility if he or she is not receiving services and
112 programming that are substantially equivalent to those that are
113 available in a Department of Corrections facility, including,
114 but not limited to, educational programing, vocational training,



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115 faith and character based programming, health services, mental
116 health treatment and counseling, substance abuse treatment and
117 counseling, and transitional services.

118 (c) An offender sentenced to a county jail under this
119 section shall be afforded the same or substantially equivalent
120 opportunity to earn gain-time or other sentence credit, but may
121 not receive gain-time or other sentence credit in an amount that
122 would cause his or her sentence to expire, end, or terminate, or
123 that would result in his or her release, before serving a
124 minimum of 85 percent of the sentence imposed.

125 (d) A felony offense for which an inmate is sentenced to a
126 county jail under this section is considered to be a prior
127 felony commitment at a state or federal correctional institution
128 for the purposes of ss. 944.291, 947.1405, and 948.12.

129 (e)1. A court may only sentence an offender to a county
130 jail pursuant to this section if there is a contractual
131 agreement between the chief correctional officer of that county
132 and the Department of Corrections.

133 2. The Department of Corrections shall enter into a
134 contract that allows offenders to be sentenced to a county jail
135 pursuant to this section if the chief correctional officer of a
136 county requests the department to enter into such contract.

137 3. The contract must:

138 a. Establish the maximum number of beds and the validated
139 per diem rate;

140 b. Provide a per diem reimbursement rate for the days an
141 inmate is in the custody of the county jail based on the
142 contracting county's most recent annual adult male custody or
143 adult female custody per diem rates, not to exceed \$60 per



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- 144 inmate;
- 145 c. Require that inmates sentenced to a county jail receive
- 146 substantially equivalent services and programming as are
- 147 provided by the Department of Corrections in accordance with
- 148 chapter 944, including, but not limited to, educational
- 149 programming, vocational training, faith and character based
- 150 programming, health services, mental health treatment and
- 151 counseling, substance abuse treatment and counseling, and
- 152 transitional services;
- 153 d. Specify the services and programming the county will
- 154 provide to the inmates in accordance with sub-subparagraph c.;
- 155 e. Authorize a county jail to contract with a privately
- 156 operated community release and transition center to provide the
- 157 required services and programming to any inmates sentenced to a
- 158 county jail;
- 159 f. Establish regular intervals that the county jail and
- 160 Department of Corrections must share information related to an
- 161 inmate sentenced to a county jail under this section, including,
- 162 but not limited to, an inmate's confinement status and any
- 163 information related to the calculation of a tentative release
- 164 date; and
- 165 g. Require the county jail provide documentation to verify
- 166 the expenses related to an inmate sentenced to a county jail
- 167 under this section, including, but not limited to, the number of
- 168 days an inmate is in the custody of the county jail.
- 169 (f) A contract executed under this section is contingent
- 170 upon an appropriation by the legislature for the specific
- 171 purpose of funding state inmates housed in county facilities.
- 172 Contracts must be awarded by the Department of Corrections on a



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173 first-come, first-served basis up to the maximum appropriation
174 allowable. For purposes of this section, "maximum appropriation
175 allowable" means the sum of the appropriations made by the
176 legislature to fund state inmates housed in county facilities
177 and the net amount of appropriations transferred to or from the
178 State Inmates Housed in County Jail appropriation category for
179 contracts entered into under this section and s. 944.172.

180 (g) Each time the Department of Corrections executes a
181 contract pursuant to this section, the Department of Corrections
182 shall transfer funds, consistent with the requirements of
183 chapter 216, from other appropriation categories within the
184 Adult Male Custody Operations or the Adult and Youthful Offender
185 Female Custody Operations budget entities to the State Inmates
186 Housed in County Jail appropriation category in an amount
187 necessary to satisfy the requirements of each executed contract,
188 but not to exceed the Department of Corrections' average total
189 per diem published for the preceding fiscal year for adult male
190 custody or adult and youthful offender female custody inmates
191 for each county jail bed contracted. Before any appropriation is
192 transferred to the State Inmates Housed in County Jail
193 appropriation category, the Department of Corrections shall
194 estimate the appropriation amount that is obligated for the
195 county jail beds contracted under this section and s. 944.172 to
196 estimate the amount in which these obligations exceed the
197 Department of Corrections' per diem for adult male and female
198 inmates.

199 (h) Each time a contract executed pursuant to this section
200 ends, the Department of Corrections shall transfer funds,
201 consistent with the requirements of chapter 216, from the State



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202 Inmates Housed in County Jail appropriation category to the
203 other appropriation categories within the Adult Male Custody
204 Operations or the Adult and Youthful Offender Female Custody
205 Operations budget entities. Such transfer may not exceed the
206 Department of Corrections' average total per diem published for
207 the preceding fiscal year for adult male custody or adult and
208 youthful offender female custody inmates for each county jail
209 bed contracted.

210 (i) The Department of Corrections shall assume maximum
211 annual value of each contract entered into under this section
212 and s. 944.172 when determining the full use of funds
213 appropriated to ensure that the maximum appropriation allowable
214 is not exceeded.

215 (j) All contractual per diem rates under this section and
216 all per diem rates used by the Department of Corrections must be
217 validated by the Auditor General before payments are made.

218 Section 2. Section 944.172, Florida Statutes, is created to
219 read:

220 944.172 Housing of an inmate in a county jail.-

221 (1) (a) An inmate committed to the custody of the department
222 who has less than 24 months remaining on his or her sentence may
223 be transferred for the remainder of the term of imprisonment to
224 a county jail in the county where he or she will reside upon
225 release.

226 (b)1. Notwithstanding s. 947.149 and regardless of the
227 length of imprisonment remaining on an inmate's sentence, a
228 terminally ill inmate that has less than 12 months to live may
229 be transferred to a county jail in the county where his or her
230 family resides for the remainder of the term of his or her



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231 imprisonment or life, whichever occurs first. For purposes of
232 this section, "terminally ill inmate" means an inmate who has a
233 condition caused by injury, disease, or illness which, to a
234 reasonable degree of medical certainty, renders the inmate
235 terminally ill to the extent that there can be no recovery and
236 death is expected within 12 months.

237 2. A terminally ill inmate transferred to a county jail
238 does not have to be reviewed and approved by the Florida
239 Commission on Offender Review in accordance with s. 947.149.
240 However, an inmate transferred under this paragraph is still
241 eligible to be subsequently released from the county jail on
242 conditional medical release pursuant to s. 947.149.

243 (c) Any inmate transferred to a county jail under this
244 section remains under the jurisdiction of the department.

245 (2) Except as provided for in s. 947.149, an inmate
246 transferred to a county jail under this section shall be
247 afforded the same or substantially equivalent opportunity to
248 earn gain-time or other sentence credit, but may not receive
249 gain-time or other sentence credit in an amount that would cause
250 the inmate's sentence to expire, end, or terminate, or that
251 would result in the inmate's release, prior to serving a minimum
252 of 85 percent of the sentence imposed.

253 (3) (a) An inmate may only be transferred to a county jail
254 under this section if there is a contractual agreement between
255 the chief correctional officer of that county and the
256 department.

257 (b) The department shall enter into a contract that allows
258 inmates to be transferred to a county jail pursuant to this
259 section if the chief correctional officer of a county requests



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260 the department to enter into such contract.

261 (c) The contract must:

262 1. Establish the maximum number of beds and the validated
263 per diem rate;

264 2. Provide a per diem reimbursement rate for the days an
265 inmate is in the custody of the county jail based on the
266 contracting county's most recent annual adult male custody or
267 adult female custody per diem rates, not to exceed \$60 per
268 inmate;

269 3. Specify whether the county will accept the transfer of a
270 terminally ill inmate;

271 4. Designate the categories of inmate classification or
272 security level that will be accepted for transfer;

273 5. Provide for the delivery and retaking of inmates;

274 6. Require that inmates transferred to a county jail
275 receive substantially equivalent services and programming as are
276 provided by the department in accordance with chapter 944,
277 including, but not limited to, educational programing,
278 vocational training, faith and character based programming,
279 health services, mental health treatment and counseling,
280 substance abuse treatment and counseling, and transitional
281 services;

282 7. Specify the services and programming the county will
283 provide to the inmates in accordance with subparagraph 6.;

284 8. Authorize a county jail to contract with a privately
285 operated community release and transition center to provide the
286 required services and programming to any inmates transferred to
287 a county jail;

288 9. Establish regular intervals that the county jail and the



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289 department must share information related to an inmate
290 transferred to a county jail under this section, including, but
291 not limited to, an inmate's confinement status and any
292 information related to the calculation of a tentative release
293 date; and

294 10. Require the county jail to provide documentation to
295 verify expenses related to an inmate transferred to a county
296 jail under this section, including, but not limited to, the
297 number of days an inmate is in the custody of the county jail.

298 (4) The department shall transfer any inmate that is
299 eligible under subsection (1) if the inmate also qualifies under
300 the contractual terms mutually agreed to by the department and
301 the designated county of release.

302 (5) An inmate may request to be transferred back to a
303 department facility if he or she is not receiving the services
304 and programming that are substantially equivalent to those that
305 are available in a department facility, including, but not
306 limited to, educational programing, vocational training, faith
307 and character based programming, health services, mental health
308 treatment and counseling, substance abuse treatment and
309 counseling, and transitional services.

310 (6) The inmate shall be transferred back to a department
311 facility to serve the remainder of his or her sentence in the
312 event a contract between the chief correctional officer and the
313 department expires, terminates, or is not renewed during an
314 inmate's imprisonment in the county jail.

315 (7) (a) A contract executed under this section is contingent
316 upon an appropriation by the legislature for the specific
317 purpose of funding state inmates housed in county facilities.



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318 Contracts must be awarded by the department on a first-come,
319 first-served basis up to the maximum appropriation allowable.
320 For purposes of this section, "maximum appropriation allowable"
321 means the sum of the appropriations made by the legislature to
322 fund state inmates housed in county facilities and the net
323 amount of appropriations transferred to or from the State
324 Inmates Housed in County Jail appropriation category for
325 contracts entered into under this section and s. 921.188.

326 (b) Each time the department executes a contract pursuant
327 to this section, the department shall transfer funds, consistent
328 with the requirements of chapter 216, from other appropriation
329 categories within the Adult Male Custody Operations or the Adult
330 and Youthful Offender Female Custody Operations budget entities
331 to the State Inmates Housed in County Jail appropriation
332 category in an amount necessary to satisfy the requirements of
333 each executed contract, but not to exceed the department's
334 average total per diem published for the preceding fiscal year
335 for adult male custody or adult and youthful offender female
336 custody inmates for each county jail bed contracted. Before any
337 appropriation is transferred to the State Inmates Housed in
338 County Jail appropriation category, the department shall
339 estimate the appropriation amount that is obligated for the
340 county jail beds contracted under this section and s. 921.188 to
341 estimate the amount in which these obligations exceed the
342 department's per diem for adult male and female inmates.

343 (c) Each time a contract executed pursuant to this section
344 ends, the department shall transfer funds, consistent with the
345 requirements of chapter 216, from the State Inmates Housed in
346 County Jail appropriation category to the other appropriation



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347 categories within the Adult Male Custody Operations or the Adult
348 and Youthful Offender Female Custody Operations budget entities.
349 Such transfer may not exceed the department's average total per
350 diem published for the preceding fiscal year for adult male
351 custody or adult and youthful offender female custody inmates
352 for each county jail bed contracted.

353 (d) The department shall assume maximum annual value of
354 each contract entered into under this section and s. 921.188
355 when determining the full use of funds appropriated to ensure
356 that the maximum appropriation allowable is not exceeded.

357 (e) All contractual per diem rates under this section and
358 all per diem rates used by the department must be validated by
359 the Auditor General before payments are made.

360 (8) The department may adopt rules to administer this
361 section.

362 Section 3. Subsection (6) of section 947.149, Florida
363 Statutes, is renumbered as subsection (7), and a new subsection
364 (6) is added to that section, to read:

365 947.149 Conditional medical release.-

366 (6) An inmate transferred to a county jail pursuant to s.
367 944.172(1)(b) does not have to be reviewed and approved by the
368 commission in accordance with this section and such transfer
369 does not exclude the inmate from subsequently being released
370 from imprisonment in accordance with this section.

371 Section 4. This act shall take effect October 1, 2018.