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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:

54  
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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inmate;

c. Require that inmates sentenced to a county jail receive substantially equivalent services and programming as are provided by the Department of Corrections in accordance with chapter 944, including, but not limited to, educational programing, vocational training, faith and character based programming, health services, mental health treatment and counseling, substance abuse treatment and counseling, and transitional services;

d. Specify the services and programming the county will provide to the inmates in accordance with sub-subparagraph c.;

e. Authorize a county jail to contract with a privately operated community release and transition center to provide the required services and programming to any inmates sentenced to a county jail;

f. Establish regular intervals that the county jail and Department of Corrections must share information related to an inmate sentenced to a county jail under this section, including, but not limited to, an inmate's confinement status and any information related to the calculation of a tentative release date; and

g. Require the county jail provide documentation to verify the expenses related to an inmate sentenced to a county jail under this section, including, but not limited to, the number of days an inmate is in the custody of the county jail.

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