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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/07/2017	.	
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Appropriations Subcommittee on Criminal and Civil Justice
(Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 67 - 123

and insert:

Corrections;

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



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11 3. May request to be transferred to a Department of
12 Corrections facility if he or she is not receiving services and
13 programming that are substantially equivalent to those that are
14 available in a Department of Corrections facility, including,
15 but not limited to, educational programing, vocational training,
16 faith and character based programming, health services, mental
17 health treatment and counseling, substance abuse treatment and
18 counseling, and transitional services.

19 (c) An offender sentenced to a county jail under this
20 section shall be afforded the same or substantially equivalent
21 opportunity to earn gain-time or other sentence credit, but may
22 not receive gain-time or other sentence credit in an amount that
23 would cause his or her sentence to expire, end, or terminate, or
24 that would result in his or her release, before serving a
25 minimum of 85 percent of the sentence imposed.

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

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

34 2. The Department of Corrections shall enter into a
35 contract that allows offenders to be sentenced to a county jail
36 pursuant to this section if the chief correctional officer of a
37 county requests the department to enter into such contract.

38 3. The contract must:

39 a. Establish the maximum number of beds and the validated



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40 per diem rate;

41 b. Provide a per diem reimbursement rate for the days an
42 inmate is in the custody of the county jail based on the
43 contracting county's most recent annual adult male custody or
44 adult female custody per diem rates, not to exceed \$60 per
45 inmate;

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

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

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

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

66 g. Require the county jail provide documentation to verify
67 the expenses related to an inmate sentenced to a county jail
68 under this section, including, but not limited to, the number of



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69 days an inmate is in the custody of the county jail.

70 (f) A contract executed under this section is contingent
71 upon an appropriation by the legislature for the specific
72 purpose of funding state inmates housed in county facilities.
73 Contracts must be awarded by the Department of Corrections on a
74 first-come, first-served basis up to the maximum appropriation
75 allowable. For purposes of this section, "maximum appropriation
76 allowable" means the sum of the appropriations made by the
77 legislature to fund state inmates housed in county facilities
78 and the net amount of appropriations transferred to or from the
79 State Inmates Housed in County Jail appropriation category for
80 contracts entered into under this section and s. 944.172.

81 (g) Each time the Department of Corrections executes a
82 contract pursuant to this section, the Department of Corrections
83 shall transfer funds, consistent with the requirements of
84 chapter 216, from other appropriation categories within the
85 Adult Male Custody Operations or the Adult and Youthful Offender
86 Female Custody Operations budget entities to the State Inmates
87 Housed in County Jail appropriation category in an amount
88 necessary to satisfy the requirements of each executed contract,
89 but not to exceed the Department of Corrections' average total
90 per diem published for the preceding fiscal year for adult male
91 custody or adult and youthful offender female custody inmates
92 for each county jail bed contracted. Before any appropriation is
93 transferred to the State Inmates Housed in County Jail
94 appropriation category, the Department of Corrections shall
95 estimate the appropriation amount that is obligated for the
96 county jail beds contracted under this section and s. 944.172 to
97 estimate the amount in which these obligations exceed the



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98 Department of Corrections' per diem for adult male and female
99 inmates.

100 (h) Each time a contract executed pursuant to this section
101 ends, the Department of Corrections shall transfer funds,
102 consistent with the requirements of chapter 216, from the State
103 Inmates Housed in County Jail appropriation category to the
104 other appropriation categories within the Adult Male Custody
105 Operations or the Adult and Youthful Offender Female Custody
106 Operations budget entities. Such transfer may not exceed the
107 Department of Corrections' average total per diem published for
108 the preceding fiscal year for adult male custody or adult and
109 youthful offender female custody inmates for each county jail
110 bed contracted.

111 (i) The Department of Corrections shall assume maximum
112 annual value of each contract entered into under this section
113 and s. 944.172 when determining the full use of funds
114 appropriated to ensure that the maximum appropriation allowable
115 is not exceeded.

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

119 Section 2. Section 944.172, Florida Statutes, is created to
120 read:

121 944.172 Housing of an inmate in a county jail.-

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



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127 (b)1. Notwithstanding s. 947.149 and regardless of the
128 length of imprisonment remaining on an inmate's sentence, a
129 terminally ill inmate that has less than 12 months to live may
130 be transferred to a county jail in the county where his or her
131 family resides for the remainder of the term of his or her
132 imprisonment or life, whichever occurs first. For purposes of
133 this section, "terminally ill inmate" means an inmate who has a
134 condition caused by injury, disease, or illness which, to a
135 reasonable degree of medical certainty, renders the inmate
136 terminally ill to the extent that there can be no recovery and
137 death is expected within 12 months.

138 2. A terminally ill inmate transferred to a county jail
139 does not have to be reviewed and approved by the Florida
140 Commission on Offender Review in accordance with s. 947.149.
141 However, an inmate transferred under this paragraph is still
142 eligible to be subsequently released from the county jail on
143 conditional medical release pursuant to s. 947.149.

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

146 (2) Except as provided for in s. 947.149, an inmate
147 transferred to a county jail under this section shall be
148 afforded the same or substantially equivalent opportunity to
149 earn gain-time or other sentence credit, but may not receive
150 gain-time or other sentence credit in an amount that would cause
151 the inmate's sentence to expire, end, or terminate, or that
152 would result in the inmate's release, prior to serving a minimum
153 of 85 percent of the sentence imposed.

154 (3) (a) An inmate may only be transferred to a county jail
155 under this section if there is a contractual agreement between



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156 the chief correctional officer of that county and the
157 department.

158 (b) The department shall enter into a contract that allows
159 inmates to be transferred to a county jail pursuant to this
160 section if the chief correctional officer of a county requests
161 the department to enter into such contract.

162 (c) The contract must:

163 1. Establish the maximum number of beds and the validated
164 per diem rate;

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

170 3. Specify whether the county will accept the transfer of a
171 terminally ill inmate;

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

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

175 6. Require that inmates transferred to a county jail
176 receive substantially equivalent services and programming as are
177 provided by the department in accordance with chapter 944,
178 including, but not limited to, educational programing,
179 vocational training, faith and character based programming,
180 health services, mental health treatment and counseling,
181 substance abuse treatment and counseling, and transitional
182 services;

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



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185 8. Authorize a county jail to contract with a privately
186 operated community release and transition center to provide the
187 required services and programming to any inmates transferred to
188 a county jail;

189 9. Establish regular intervals that the county jail and the
190 department must share information related to an inmate
191 transferred to a county jail under this section, including, but
192 not limited to, an inmate's confinement status and any
193 information related to the calculation of a tentative release
194 date; and

195 10. Require the county jail to provide documentation to
196 verify expenses related to an inmate transferred to a county
197 jail under this section, including, but not limited to, the
198 number of days an inmate is in the custody of the county jail.

199 (4) The department shall transfer any inmate that is
200 eligible under subsection (1) if the inmate also qualifies under
201 the contractual terms mutually agreed to by the department and
202 the designated county of release.

203 (5) An inmate may request to be transferred back to a
204 department facility if he or she is not receiving the services
205 and programming that are substantially equivalent to those that
206 are available in a department facility, including, but not
207 limited to, educational programing, vocational training, faith
208 and character based programming, health services, mental health
209 treatment and counseling, substance abuse treatment and
210 counseling, and transitional services.

211 (6) The inmate shall be transferred back to a department
212 facility to serve the remainder of his or her sentence in the
213 event a contract between the chief correctional officer and the



214 department expires, terminates, or is not renewed during an
215 inmate's imprisonment in the county jail.

216 (7) (a) A contract executed under this section is contingent
217 upon an appropriation by the legislature for the specific
218 purpose of funding state inmates housed in county facilities.
219 Contracts must be awarded by the department on a first-come,
220 first-served basis up to the maximum appropriation allowable.
221 For purposes of this section, "maximum appropriation allowable"
222 means the sum of the appropriations made by the legislature to
223 fund state inmates housed in county facilities and the net
224 amount of appropriations transferred to or from the State
225 Inmates Housed in County Jail appropriation category for
226 contracts entered into under this section and s. 921.188.

227 (b) Each time the department executes a contract pursuant
228 to this section, the department shall transfer funds, consistent
229 with the requirements of chapter 216, from other appropriation
230 categories within the Adult Male Custody Operations or the Adult
231 and Youthful Offender Female Custody Operations budget entities
232 to the State Inmates Housed in County Jail appropriation
233 category in an amount necessary to satisfy the requirements of
234 each executed contract, but not to exceed the department's
235 average total per diem published for the preceding fiscal year
236 for adult male custody or adult and youthful offender female
237 custody inmates for each county jail bed contracted. Before any
238 appropriation is transferred to the State Inmates Housed in
239 County Jail appropriation category, the department shall
240 estimate the appropriation amount that is obligated for the
241 county jail beds contracted under this section and s. 921.188 to
242 estimate the amount in which these obligations exceed the



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243 department's per diem for adult male and female inmates.

244 (c) Each time a contract executed pursuant to this section
245 ends, the department shall transfer funds, consistent with the
246 requirements of chapter 216, from the State Inmates Housed in
247 County Jail appropriation category to the other appropriation
248 categories within the Adult Male Custody Operations or the Adult
249 and Youthful Offender Female Custody Operations budget entities.
250 Such transfer may not exceed the department's average total per
251 diem published for the preceding fiscal year for adult male
252 custody or adult and youthful offender female custody inmates
253 for each county jail bed contracted.

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

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

261 (8) The department may adopt rules to administer this
262 section.

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

266 (6) An inmate transferred to a county jail pursuant to s.
267 944.172(1)(b) does not have to be reviewed and approved by the
268 commission in accordance with this section and such transfer
269 does not exclude the inmate from subsequently being released
270 from imprisonment in accordance with this section.

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



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

And the title is amended as follows:

Delete lines 2 - 14

and insert:

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 contracts 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.; requiring the Department of Corrections to transfer state inmates who have less than 24 months remaining on a term of imprisonment to county jail under certain circumstances; defining a terminally ill inmate; requiring the department to transfer a terminally ill inmate to county jail under certain circumstances; ensuring an inmate earns substantially equivalent opportunities for gain-time or sentence credit; prohibiting an inmate from receiving gain-time or



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301 other sentence credit that would result in the inmate
302 serving less than 85 percent of his or her sentence;
303 providing that contracts are contingent upon an
304 appropriation; providing contractual requirements;
305 requiring specific appropriations; providing for such
306 appropriations; requiring the validation of per diem
307 rates before payments are made; amending s. 947.149,
308 F.S.; excluding a terminally ill inmate transferred to
309 a county jail from the review and approval process
310 conducted by the Commission on Offender Review;
311 renumbering sections; providing an effective date.