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James E. "Jim" King, Jr., President

A REVIEW OF THE DEPARTMENT OF CORRECTIONS' INMATE WORK-RELEASE LAW

SUMMARY

The increasing volume of returning state inmates, the multiple challenges they face, and their high recidivism rates have serious consequences for public safety, as well as for the state budget.

The subject of this interim project is the law creating the Community Work Release (CWR) Program. Embattled by several high profile situations in the past involving CWR inmates escaping and committing heinous crimes, the CWR program has maintained only a small and shrinking role in the corrections system.

In recent years, the department closed CWR centers, shortened the length of time spent at the centers, and restricted both who is placed there and what degrees of freedom are permitted while residing at the center. These policy changes have resulted in a dramatic and sustained reduction in escapes. Clearly, the department has been highly successful in limiting its exposure to failure in the CWR program.

This success, however, comes with both tangible and intangible costs. With fewer inmates eligible, with fewer CWR bed spaces available, and with fewer months in the controlled environment of a CWR center, the potential long-term benefits of reduced recidivism may be lessened. In the long term this ironically may further endanger public safety once the inmate is fully released from state custody.

If the state continues to rely on the most costly forms of incarceration and continues its retreat from transition assistance programs like CWR, then the state can expect:

- to spend more for its corrections system; and
- to collect less in subsistence fees.

Victims can expect:

- to receive less in restitution.

Dependants of inmates can expect:

- to get less child support.

Inmates returning to their communities can expect:

- to find jobs with lower wages; and
- to be less prepared to face the challenges of prisoner reentry.

Balancing the interests of public safety while a criminal is a "state inmate" with the interests of public safety when the criminal is no longer an "inmate" but a member of our society again is the daunting challenge. The state should not minimize the reality that 26,000 inmates will be returning to our communities next year. Over 60 percent of them will not be supervised upon their release. If they are ill-prepared to find legitimate employment, then they are far more likely to victimize again and return to state custody. Recognizing the need to curtail this cycle of incarceration and reentry should be one of the most pressing issues in the criminal justice system today.

The hope of this report is that it will not only inform Senators on the CWR law and program in Florida, but also stimulate new policy discussions on the role of work release in the ever demanding need for inmate reentry and transition assistance.

BACKGROUND

Returning to the Community and to Crime

In 2002, more than 600,000 inmates left the state and federal prisons, four times as many as those that left prisons 25 years ago.¹ This year Florida will release more than 26,000 criminal offenders to their communities, and it is estimated that the number of releasees will continue to grow. With more prisoners returning home, having spent longer terms behind bars, most are ill prepared for life on the outside. With little assistance in their transition, they will have difficulty securing a job and housing and reconnecting with their families. Most of those released will not remain crime

free. Both national and Florida figures report that within three years of release, approximately 45 percent will be returned to prison or jail.²

The costs of this cycle of incarceration and reentry are high from several perspectives. First and foremost is public safety.

Employability and Workforce Participation: Building a Stake in Conformity

Considerable research has shown that having a legitimate job lessens the chances of reoffending following release from prison. Research has also shown that the higher the wages, the less likely it is that returning prisoners will reoffend.³ While 75 percent of state inmates report having held a legitimate job prior to their incarceration, studies show that released offenders confront a diminished prospect for stable employment. There are several reasons incarceration reduces the employability and subsequent earning capability of released inmates:

- stigma attached to incarceration;
- banned from working in certain fields;
- time out of labor market interrupts job experience; and
- exposure to prison culture strengthens ties to criminal involvement.⁴

To compound the problem, released inmates are also facing substance abuse, health and mental health problems, and housing difficulties.

To assist in workforce participation and transition back into the community for those inmates nearing their release date, the department provides the CWR program.

Fewer Returning Offenders Supervised

To appreciate the operation of the CWR program within the legal context in which it operates, it is important to understand the historical changes to the sentencing laws. The landscape of Florida's sentencing policy has changed significantly over the last twenty years. Florida has enacted a number of sentencing reforms, most of them designed to increase the use of imprisonment as a response to crime.

Florida also abolished parole in 1983. Prior to parole's abolition, the Parole Commission possessed enormous power to decide if, when, and under what conditions an inmate would be released. Parole was abolished for a variety of reasons, but principally to eliminate the

ability to override the sentence ordered by the courts and decide release dates for prisoners.

Along with the elimination of parole and discretionary release came the elimination of two secondary but important transition and reentry functions: supervising the development of the release plan and returning offenders to the community with a period of supervised release.

As a result of eliminating discretionary release, the number of inmates leaving the prison system with supervision dramatically dropped. Today, 62 percent of the inmates exiting the state prison system do so with no community supervision or assistance to follow. Of those who do receive post prison supervision, the 85 percent time served mandate has logically curtailed the duration of the postrelease oversight to 15 percent of the sentence imposed. With limited periods of oversight and control in the community, the ability of the state to manage an inmate's reentry is limited.

No Stable Mechanism for Managing Inmate Reentry

Prior to its abolition in 1983, parole was the traditional mechanism for managing an inmate's reentry into the community. Historically it was the Parole Commission who ensured an inmate was ready for release, that he or she had a place to stay, a job or solid job prospect, and the support of family and friends. Once the inmate was returned to the community, the parole officer would monitor that plan while they supervised the released inmate.

Florida is not alone, however, in its weakening of these traditional mechanisms to assist in an inmate's transition. While most states do maintain some form of post prison supervision, 14 have abolished discretionary parole and parole boards that have historically overseen the reentry process.⁵

The absence of a stable mechanism to manage a state inmate's reentry into the community has been further aggravated by multiple reshuffling in the department's organizational structure.

In 1993, the community work release unit within central office was created with the main responsibility for placing inmates into the 32 CWR centers statewide. That organizational structure continued until 1999 when the unit was reassigned and placed in the Bureau of Classification and Central Records. In 2002 and 2003, further reorganization took place. In the last ten years there have been four separate organizational

configurations to handle inmate transition. These changes have, according to some officials, led to fragmented service delivery and lack of a focused transition orientation.

The 2001 Legislature, recognizing the need for a stable mechanism to manage these reentry concerns, created and funded in central office a new Bureau of Transition and funded 52 transition assistance specialists.⁶ The Bureau remained intact until 2003 when a \$2.7 million budget and a 58 position reduction precipitated the dismantling of the Bureau.

Work Release at the National Level

Nationally, work release programs have existed since the early 1920s, with a substantial expansion in the 1970s as experienced in Florida. However, later public disenchantment with work release programs nationally have reversed this trend. The most extreme example on the national scene was Willie Horton, a Massachusetts inmate who absconded and committed serious and violent crimes while on work furlough. The case became an issue in the 1988 presidential campaign, and the negative publicity helped further erode community support for work release programs. Although 43 states have existing statutes authorizing work release, only about one-third of the states report operating such programs. Of those who do offer a program, it usually involves fewer than 3 percent of the inmate population.⁷

Florida's Early Work Release Law and Program

The 1967 Florida Legislature authorized the Department of Corrections (department) to provide a work release program to assist selected inmates who are nearing the end of their terms of imprisonment. This program involved allowing inmates to work in the community during the day and return to their community residential facilities at night. This program was designed to prepare inmates to return to the community in a relatively controlled environment, while they are learning to work productively. Work release also allows inmates to earn income, reimburse the state for part of their confinement costs, build up savings for their eventual full release, and attain more positive living habits.

Although not officially called a work release program, s. 945.091(1)(b), F.S., allowed the department to permit certain inmates to leave the confines of a correctional facility for a prescribed period of time to work at paid employment, participate in an education or training program, or voluntarily serve a public or nonprofit agency in the community. Except during the

hours of employment, education, training, or service and traveling to and from those approved sites, the inmate was to be confined to an institution or facility.

Early Growth of Work Release Program in Florida

Using this authorization from the Legislature, from 1967 to 1974, the department opened 26 work release centers in major urban areas of the state with a capacity level of 1,289 inmates as of June 30, 1974.

Throughout the 1970s and into the 1980s, the department and the Legislature continued to expand the work release program. The program reached its highest level of participation in the mid-1980s with approximately 13 percent of the inmate population participating in the work release program.

Prison Overcrowding, Accelerated Bed Space Demands and the Indiscriminate Use of Work Release

The late 1980s and early 1990s were unprecedented and difficult times in the criminal justice system. By far the most influential change was the doubling of prison admissions from 1985 to 1988. Intense pressures to alleviate prison overcrowding and to build the necessary prison beds dominated the political discussion. A wide variety of early release mechanisms and accelerated gain time programs were created to accommodate the surge of prison admissions. During the height of the "early release" years, it was common for inmates to serve only a fraction of their court imposed sentence.

Anecdotally, it has been reported that the CWR program during that time was indiscriminately used in an attempt to find inexpensive prison bed space when a prison bed capacity deficit forced the early release of inmates. In reaction to the demand for bed space during the "early release" era, the department twice sought legislative approval to change the law to expand who could go to a work release center. First in 1988 and later in 1992, the law was changed to allow more inmates to be placed on work release.

Legislative Changes to CWR Eligibility: Who Can Participate

In 1983, following a series of rapes committed by work release escapees in the Tampa area, the Legislature barred inmates convicted of sex crimes from work release.⁸ This resulted in approximately 300 inmates being removed from the work release centers and returned to prison.

Two years later in 1985, the Legislature likewise changed the law to prohibit inmates convicted of

escape to be considered for the work release program.⁹ To date these are the only two offense based restrictions imposed by the Legislature.

Two High-Profile Failures That Shaped CWR

In 1989, at the height of the prison overcrowding and early release era, Craig Allen Mrozowski, who was serving the last two years of a shortened 30-year sentence for kidnapping, robbery, burglary, and aggravated battery escaped from the Bradenton Correctional Center. After walking away from the facility, he broke into the home of an Oneco couple, tied up the man and raped the woman. Just a few weeks later another similar situation occurred. Media and public reaction to these escapes were intense. A New York Times article entitled “Rape Rekindles Fervor Over Inmate Work-Release: Floridians Angrily Ask Who Should be Eligible, and When” summarized the tenor of the times.¹⁰ This media firestorm resulted in the removal of almost 70 convicted kidnapers in work release centers around the state and prompted a series of other rule changes aimed at more effective risk assessments and public safety. Those specific rule changes are discussed in the next section of the report.

In 1991, also within the “early release” era, another escape incident occurred when Donald Dillbeck, serving the remaining half of a 25-year minimum mandatory sentence for murder, escaped from the Quincy Vocational Center near Tallahassee while working on an inmate catering crew outside of the facility. The escapee murdered Faye Vann in a parking lot of a Tallahassee shopping mall.¹¹ Although the vocational center was not a work release center, this case spurred the retooling of the entire work release system affecting hundreds of inmates by tightening the eligibility requirements for inmates allowed on work release. Within days of this incident, then-Governor Bob Martinez ordered the inmates serving minimum sentences to be removed from work release and sent back to more secure prisons. The executive order reduced the population of the work release centers from approximately 4,000 inmates to 1,300 at a time when the department was trying to find ways to ease overcrowding. In addition to the reclassification of hundreds of inmates, three prison employees were fired and eight others suspended for their part in the classification decision.¹²

Legislative and Department Changes to CWR: How Soon Can They Participate

Throughout the history of work release in Florida, the Legislature has changed the law and the department

has changed its rules to either broaden or limit who may participate in the program.

One example of how the law and rules have changed over the years is depicted in the table below. The original law allowed inmates to participate in CWR during the last *six months* of their sentence. Department policy on this has expanded and contracted throughout the years. The law, however, expanded to 36 months and remained the same.

**Changes to CWR Eligibility Criteria
Relating to Proximity to Release**

Year	Statute	Rule
1967	6 Months ¹³	6 Months
1971	12 Months ¹⁴	12 Months
1976	18 Months ¹⁵	18 Months
1988	24 Months ¹⁶	24 Months
1992	36 Months ¹⁷	36 Months
1999	No change	7 Months
2004	No change	10 Months ¹⁸

Source: Florida Department of Corrections

The table above documents two important changes that occurred in the CWR program. First, up until 1999 the department rule aligned with the statute and inmates were eligible for work release consideration within 36 months of release. In 1999, the department rule was dramatically changed and inmates no longer could be eligible for work release consideration until they were within 7 months of release. Second, from 1967 to 1992 the Legislature repeatedly changed the law to allow inmates the opportunity to be placed in CWR sooner---supposedly in response to pressures to find additional bed space.

The most notable impact of the change in 1999 was that those placed on work release would stay at the center for a considerably shorter period of time. In fact, the average length of stay at the work release center was reduced from 8 months to 4 months. This change increased the turnover at the centers and reportedly made it more difficult for the inmate to secure apprenticeships and other more meaningful and well-paid employment while residing at the center.

The reduction in time spent at the center had a significant positive effect, however. Experience had shown that offenders who were housed at the center for long periods of time, 12 months or longer, were more likely to give in to temptations and violate the rules and reoffend. By limiting the time spent at the center, escapes and disciplinary terminations were expected to

decline. Below is a table that shows the drop in median length of stay for inmates at the work release centers:

Length of Stay at CWR Centers

Fiscal Year	Median Length of Stay
FY 1995-96	7 months
FY 1996-97	8 months
FY 1997-98	7 months
FY 1998-99	6 months
FY 1999-00	4 months
FY 2000-01	4 months
FY 2001-02	3 months
FY 2002-03	4 months

Source: Florida Department of Corrections

Miscellaneous Rule Changes to CWR

During the last decade the work release rules have also been changed to exclude certain types of offenders. The rules made ineligible those inmates who:

- had an escape history;
- had been terminated from work release;
- had been incarcerated 4 or more times;
- had refused substance abuse treatment;
- were not disciplinary report free for 90 days; and
- who were not in custody for 90 days.

In addition, the department also adopted rules to:

- verify employment within five days of job;
- make three job checks per month;
- return to the center before midnight;
- prohibit operating a motor vehicle on furlough;
- require furlough sponsor be a relative;
- restrict furlough to only 8 daylight hours;
- require furlough be at a residence with a phone;
- make three telephone contacts on furlough; and
- pay 10 percent of wages to dependants.

While not verifiable, the adoption of these rules most likely contributed greatly to a more secure operation.

Decline of CWR Program Capacity

Throughout the late 1980s and 1990s inmate participation in the work release program declined. The decline occurred for two principal reasons:

- the multiple publicized cases in Florida; and
- the continued popularity of and emphasis on more punitive corrections policies.

As a result of concerns for public safety, policymakers not only reassessed what kind of inmates would be permitted to participate in work release, but also significantly reduced the bed capacity available for work release. As partially shown below, the program has consistently dropped in its level of participation since the early seventies with 2.8 percent of the inmate population participating in the work release program today. Not only has the population been reduced over the years, but the significant drop in population occurred between 1998 and 1999 when there was no demand for new prison beds.

CWR Bed Capacity and Population

Year	# of Centers	CWR Beds	CWR Pop.	% of Total Inmate Pop.
1995	32	3,118	2,617	4.2%
1996	32	3,019	2,547	4.0%
1997	31	2,638	2,301	3.6%
1998	29	2,527	2,648	3.9%
1999	30	2,531	2,292	3.3%
2000	29	2,506	2,259	3.2%
2001	26	2,214	2,198	3.1%
2002	24	2,152	2,241	3.1%
2003	24	2,152	2,213	2.8%

Source: Florida Department of Corrections

The map below shows the locations of the 24 centers.



Approximately 1,000 beds have been lost and six CWR centers have been closed in the last few years. This sizable reduction in bed availability was due, according to officials at the department, to a change in mission at the agency, changes in administrative leadership, and an “urbanization” of CWR locations that prompted the closure of some CWR centers.

Inmates on CWR Pose Less Risk/Fewer Escapes

As illustrated below, escapes from the CWR program have plummeted in recent years, particularly during the 1998 and 1999 years. According to the department, this is attributable to four factors:

- a drop in capacity;
- a reduction in the usage of the program;
- rule changes that affected the length of time an inmate had remaining on his or her sentence at the time of placement; and
- rule changes that resulted in a better screening process for deciding who should be placed.

Clearly, the department has been highly successful in limiting its exposure to failure in the CWR program.

Escapes and Disciplinary Removals from CWR

Fiscal Year	Escapes	Disciplinary Removals
1995-96	344	568
1996-97	271	546
1997-98	235	523
1998-99	199	642
1999-00	102	550
2000-01	81	459
2001-02	65	477
2002-03	72	520

Source: Florida Department of Corrections

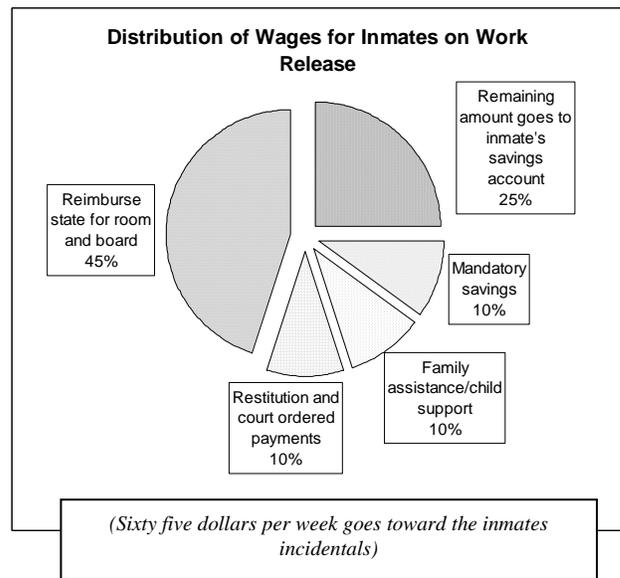
Tangible Fiscal Benefits: Paying Restitution, Paying Child Support and Paying for Incarceration

There are significant and tangible fiscal advantages to the state and to the community when an inmate participates in CWR. Specifically, CWR offers tangible fiscal benefits to the state through the collection of subsistence fees, to victims through the payment of restitution and to an inmate’s dependants when child support is paid. Of course none of these benefits are attainable if the program is operated in such a way as to jeopardize public safety. But, if protections are in place and the selection criteria and security is intelligent, then the state, victims and the inmate’s dependants are

poised to reap many rewards. Listed below are the benefits:

- Payment for incarceration (room and board) while residing at a work release center;
- Reduced cost to the state --- the per diem costs for a work release bed is \$26.65 compared to \$48.15 for a bed at a major institution;¹⁹
- Payment of restitution to victims while inmate is in state custody --- collected \$871,164 in last fiscal year; and
- Payment of child support while inmate is in state custody --- \$175,000 collected annually.

Both law and department rule govern how the earnings of inmates on work release shall be allocated. The following pie chart shows how an inmate’s wages are actually distributed:



The table below illustrates the significant decline in subsistence fees collected over the last eight years.

Subsistence and Transportation Fees Collected From Inmates on CWR

Fiscal Year	Amount Collected
1995-96	\$8,144,158
1996-97	\$7,747,200
1997-98	\$8,289,379
1998-99	\$8,334,294
1999-00	\$6,618,815
2000-01	\$6,571,930
2001-02	\$6,367,518
2002-03	\$6,533,263

Source: Florida Department of Corrections

Intangible Fiscal Benefits: Reduced Recidivism and Transition Assistance

In addition to the fiscal advantages of the CWR program listed above, there are three less visible but equally important benefits from the CWR program. They include:

- Assisting inmate in refreshing job skills;
- Providing controlled environment to assist an inmate's transition; and
- Reducing recidivism --- 36 percent compared to 42 percent for those who did not participate.

2003 Legislation Impacting Work Release and the Use of Inmate Drivers

While this report's scope is broad in its review of the CWR program, it is important to mention a narrow but important legislative issue raised in 2003. In 2002, an inmate assigned to the Opa Locka Work Release Center in Miami was driving a department van with two other inmates when he was stopped for a traffic violation. The inmate was permitted by department rule to drive other work release inmates to and from their job sites using a department vehicle. After refusing to sign the traffic citation, the inmate was arrested and returned to the department's custody. The media coverage of this incident and the department policy of using inmate drivers prompted an inquiry from the chairman of the Senate Criminal Justice Committee and the eventual passage of the legislation banning the practice.²⁰

Prior to the passage of the bill, department rule required that transportation for work release inmates be provided by either employer furnished transportation, public conveyance, employee car pools, or facility provided transportation.²¹

Over seventy percent of inmates in the work release program prior to the law change utilized department-provided transportation. Inmate drivers were used for transporting these inmates prior to suspension of the inmate driver program in October of 2002, with 64 work release center support inmates assigned to the task statewide.

The 2003 law change amended s. 945.091, F.S., to require inmates to get to their job, classes, or training by walking, bicycling, riding public transportation, or by transportation provided by a family member or employer. Since most inmates relied upon the department provided transportation to get to their job sites, the law change effective October 1, 2003

required those work release participants who used facility provided transportation to find another way to get to work.

After the bill's passage, but before the law took effect, the department initially negotiated a *statewide* contract with Sunshine Transportation to provide transportation services to inmates on work release. This decision was rescinded prior to its implementation and the department instead opted to allow each *local* center to comply with the new law in a way that best meets their unique transportation needs.

According to the department, this new transportation policy is now fully implemented and the initial shift was not as disruptive to the program's continuity as originally anticipated.

METHODOLOGY

Staff met with various department officials, gathered information from the department, compiled news media accounts, researched legislative history, and conducted a brief literature review.

FINDINGS

- The increasing volume of returning state inmates, the multiple challenges they face, and their high recidivism rates have serious consequences for public safety, as well as for the state budget;
- Research has shown that having a legitimate job lessens the chances of reoffending;
- Participation in the CWR program has been shown to reduce recidivism;
- CWR offers tangible fiscal benefits to the state through the collection of subsistence fees, to victims through the payment of restitution, and to an inmate's dependants through the payment of child support;
- In the late 1980s and early 1990s the CWR program experienced several high-profile failures that still shape the program today;
- Sixty-two percent of released inmates have no community supervision to follow;
- The department has reduced by slightly less than 1,000, the bed capacity for the CWR program;
- For 2003, the program has reached its lowest level of participation since the early seventies with only 2.8 percent of the inmate population participating in the CWR program;
- Because of low program participation, the collection of subsistence fees are down;
- By lowering the utilization of CWR beds at a per diem cost of \$26.65 compared to \$48.15 for a bed

- at a major institution, the state is opting for a more costly level of confinement;
- The time spent at the CWR for a typical inmate has been reduced from 8 to 4 months, possibly hindering an inmate's ability to secure a higher wage job;
 - In the interests of public safety, the department restricted what degrees of freedom are permitted while residing at the CWR center;
 - The department has significantly limited eligibility for the CWR program in the last four years;
 - The department has been highly successful in limiting its exposure to failure in the CWR program and its drop in the escape rate is reflective of that success; and
 - The Legislature delegated broad discretion to the department in deciding when an inmate may be placed in CWR. Currently the law and practice are not closely aligned.

RECOMMENDATIONS

1. The Legislature should amend s. 945.091(1)(b), F.S., to allow inmates to participate in work release only within the last 18 months of the sentence. Under current law an inmate may participate in CWR only during the last 36 months.
2. The Legislature and the department should, in making future funding decisions, carefully recognize the public safety importance of prisoner reentry and transition.
3. When expanding prison bed space capacity, the Legislature and the department should consider the role of CWR beds when deciding the appropriate "mix" of beds.
4. The department should expand its vision and focus its efforts to manage reentry so that fewer crimes are committed by fully released inmates.

5. The department should consider evaluating its current organizational structure to determine if it facilitates the coordination of CWR and transition.
6. The department should assess whether the shortened average length of stay is lessening the effectiveness of the program.

¹ "Beyond the Prison Gates: The State of Parole in America," Urban Institute, Justice Policy Center, November 2002.

² "Florida Department of Corrections Recidivism Report: Inmates Released from Florida Prisons – July 1995 to June 2001," July 2003.

³ "From Prison to Home: The Dimensions and Consequences of Prisoner Reentry," Urban Institute, Justice Policy Center, June 2001.

⁴ Ibid.

⁵ "But They All Come Back: Rethinking Prison Reentry," U.S. Department of Justice, Office of Justice Programs, May 2000.

⁶ Chapter 2001-110, L.O.F., Section 21.

⁷ "Research in Brief," U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, December 1996.

⁸ s. 945.091(3), F.S.

⁹ s. 945.092, F.S.

¹⁰ New York Times, pg. 13, December 19, 1989.

¹¹ Department of Corrections, www.dc.state.fl.us/oth/timeline/1998-1990b.html

¹² Sun-Sentinel, October 13, 1990 "Reclassification Throws Prison System off Balance."

¹³ s. 1, Ch. 67-59, L.O.F.

¹⁴ s. 1, Ch. 71-112, L.O.F.

¹⁵ s. 74, Ch. 76-273, L.O.F.

¹⁶ s. 88, Ch. 88-122, L.O.F.

¹⁷ s. 2, Ch. 92-27, L.O.F.

¹⁸ Rule change expected to be implemented Spring of 2004.

¹⁹ Department of Corrections Annual Report, 2002-03

²⁰ The policy was the subject of a report by Jeff Weinsier with WPLG Channel 10. The legislation was SB 278 by Senator Alex Villalobos and was codified as Ch. 2003-141, L.O.F.

²¹ Chapter 33-601.602(9)(a), FAC.