



# The Florida Senate

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Committee on Criminal Justice

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## **BREAKING THE CYCLE OF CRIME: THE DEPARTMENT OF CORRECTIONS AND RE-ENTRY PROGRAMMING**

### **Statement of the Issue**

The Department of Corrections (department) has custody of more than 90,000 inmates, 90 percent of whom will be released one day. In Fiscal Year 2006-2007, 35,337 inmates were released from the state's correctional facilities, but statistics indicate that more than 11,000 will be reincarcerated within 3 years. With an average cost of \$19,300 per year to incarcerate one inmate, the State of Florida can expect to spend \$212 million to incarcerate these returnees for only one year.

In the past decade the executive and legislative branches of state government have acknowledged the importance of reentry services and post-release planning and transition. Various initiatives have been undertaken to improve an inmate's post-release success. However, barriers to successful reentry abound despite this commitment by policymakers to address the problem. Furthermore, initiatives such as expanded drug treatment programs and the use of transition assistance officers have been adversely impacted by recent budget reductions and budget reallocations.

In May 2007, the department revised its mission statement to include assisting offenders with reentry into society in order to reduce recidivism and to lower crime rates. The department's goal is to bring down the recidivism rate from its current rate of 32 percent to 20 percent by 2012. Successfully reaching that goal could avoid \$85 million of costs annually to the correctional system. In addition, the budgets of law enforcement agencies and the court system would benefit from fewer investigations, arrests, and prosecutions. Most importantly, there would be both financial and social benefits for those citizens who would not become victims of crime.

This briefing document focuses upon the department's efforts to assist inmates in successfully reentering society after release from prison. Its purpose is to provide information to assist legislators in policy and funding decisions during the 2009 Legislative Session.

### **Discussion**

Among the major issues that relate to an inmate's successful reentry into society are his or her ability to find employment and housing, to overcome substance abuse problems, and to obtain treatment for mental health problems. The existence of family and social support systems and advance planning for reentry also enhance a former inmate's chances for successful reentry into the free world.

#### **Transitional Program Assistance Act**

The Legislature passed the Transitional Assistance Program Act in 1987. The intent of the Act is to "provide persons released from incarceration from the Department of Corrections with certain fundamental resources in the areas of employment, life skills training, job placement, and access to as many support services as possible in order to appreciably increase the likelihood of the inmate's successful reentry into free society."<sup>1</sup> Since 2001, the Act has also expressed legislative intent that priority be given to substance-abuse addicted inmates to break the cycle of self-damaging behavior that harms families and communities. The department is required to provide a transition assistance specialist at each major institution to coordinate transition services at the institution and community correctional

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<sup>1</sup> s. 944.702, F.S. The entire Act is codified at ss. 944.701-708, F.S.

facilities. Specific duties of the transition assistance specialist include: assisting in the development of each inmate's post-release plan, obtaining job placement information, providing the inmate with a medical discharge plan including post-release referral to a county health department, providing a 30-day supply of HIV/AIDS medicines to HIV-positive inmates, facilitating placement in a private transition housing program if requested, and providing the inmate with a photo identification card.

The Act also requires that every inmate complete a 100-hour transition course prior to release. The course covers job readiness and life management skills. In addition, the department is required to provide support services such as substance abuse counseling, family counseling, and employment support services to releasees who are identified as needing services by the pre-release needs assessment. Providers for these services may be private secular or faith-based service groups. The department conducts monthly Re-entry Seminars as part of the 100-hour transition program. The focus is to provide inmates with up-to-date information regarding employment opportunities, community resources, social services, housing, food, and other resources to ensure a smooth transition back to their respective communities.<sup>2</sup>

The requirements of the Act are not fully implemented due to funding constraints. For example, funding for transition assistance specialists was eliminated in 2003. Classification officers, who are tasked with a range of tasks other than transition assistance, provide the transition assistance function to the extent possible. The 100-hour transition course was formerly taught by an instructor who engaged in interaction with the inmates in a classroom setting. Now, in most cases the course is viewed by the inmates on video along with self-study from a textbook. This approach substantially degrades the usefulness of the course for the many inmates who have limited reading skills. In the absence of sufficient funding to provide instructors, the department is developing a workbook that is designed for self-study and is written at a lower reading level.

### **Inability to Find Employment**

Florida law explicitly recognizes that "(o)ne of the chief factors contributing to the high recidivism rate in the state is the general inability of ex-offenders to find or keep meaningful employment."<sup>3</sup> The department has programs to address the employability of ex-offenders in the areas of education and placement assistance. It also plays a role in the restoration of civil rights process, which opens up many licensed employment opportunities to ex-felons.

### **Educational Programs**

The department assesses the educational level of inmates upon their entry into the correctional system and throughout their period of incarceration. The median test score for inmates who entered the system in FY 2005-2006 was 6.6, which is equivalent to a sixth grade education.<sup>4</sup> Inmates are eligible for academic services in accordance with their level of education as determined by the test scores. Inmates who score below a 6th grade reading level and who have at least two years remaining on their sentence must take a 150-hour literacy training program.<sup>5</sup> Those with scores below ninth grade level may be eligible for Adult Basic Education (ABE) classes, and those with higher scores may be placed in classes to earn their GED (General Education Development) high school equivalency certificate or learn a skill in a vocational class. In addition, there are special education classes for inmates who are eligible for special services under state and federal law.

Vocational education courses are offered in 32 different occupational skills. Thirty four institutions offer one or more of the programs, and successful completion leads to certification in occupational areas ranging from construction trades to computer programming. Certification in any of these areas increases the chances of obtaining employment after release.

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<sup>2</sup> Transcript of remarks by Secretary Walter A. McNeil at the Restoration of Rights Summit in Tallahassee, Florida, June 17, 2008, viewed on September 24, 2008 at [http://free-rein.us/McNeil\\_Restoration\\_of\\_Rights\\_Summit\\_speech\\_06\\_18\\_08.pdf](http://free-rein.us/McNeil_Restoration_of_Rights_Summit_speech_06_18_08.pdf).

<sup>3</sup> Successful completion of a substance abuse program also enhances employability. Substance abuse programs are discussed in a separate section of this brief.

<sup>4</sup> This grade level is based upon the Tests of Adult Basic Education (TABE). An extensive discussion of this topic can be found in OPPAGA Report No. 07-14, Corrections Rehabilitative Programs Effective, But Serve Only a Portion of the Eligible Population, February 2007.

<sup>5</sup> Prior to July 2006, the threshold score for the Mandatory Literacy Program was anything below 9th grade level.

In its 2007 review of corrections rehabilitative programs, the Office of Program Policy Analysis and Government Accountability (OPPAGA) studied the completion rate of inmates in the various academic programs. GED and vocational programs in FY 2005-2006 had completion rates of 79 percent and 73 percent respectively. Unfortunately, the completion rate for inmates who began the Adult Basic Education program was only 10 percent. This may be attributed to the longer length of the program (two years), which raised the chances of the inmate getting removed from the program for disciplinary or administrative reasons. Over 64 percent of the inmates were released before completing the program. These inmates who enter the ABE program are also those with the least previous success in education, and the factors that led to this deficiency may contribute to failure to complete the program.

OPPAGA found that inmates of either gender who completed a vocational program had lower recidivism rates than non-completers, and that male GED program completers were less likely to reoffend than male non-completers. Completion of the ABE program did not have a statistically significant impact on recidivism.<sup>6</sup>

Although the GED and vocational programs have high completion rates and have been shown to reduce recidivism, there are relatively few slots for inmates in the programs. In 2005-2006, 33,348 inmates were released from incarceration. Approximately 65 percent of those left with Tests of Adult Basic Education scores below the ninth grade level, 11,987 left without participating in academic programs for which they were eligible, and 8,816 left without participating in vocational programs for which they were eligible. Since FY 2000-2001, the educational budget has decreased by 24 percent while inmate population has increased by the same percentage. This has resulted in fewer educational opportunities and reduced quality as more inmate teaching assistants are used in lieu of fully-qualified instructors.

### ***Restoration of Civil Rights***

The Governor's Ex-Offender Task Force was created in 2005 by Executive Order 05-28 with the purpose of "help(ing) improve the effectiveness of the State of Florida in facilitating the re-entry of ex-offenders into their communities so as to reduce the incidence of recidivism." The Task Force's November 2006 Final Report noted that convicted felons face significant barriers to employment. The Task Force found that almost forty percent of the 7.6 million jobs in Florida are subject to criminal background checks or restrictions based on criminal history. These restrictions include requiring restoration of civil rights, disqualification based on the commission of specific crimes, or requiring the passing of a background check under ch. 435, F.S. Less defined restrictions require assessment of whether the applicant has good moral character or has committed an act or crime of moral turpitude.

Senate Bill 2152 passed the Senate in the 2008 Legislative Session, but died on the House calendar on the last day of Session. The bill prohibited consideration of civil rights restoration status as a condition of eligibility for public employment or obtaining a license, permit, or certificate. However, it allowed for a person to be disqualified from employment for conviction of a felony or first-degree misdemeanor if the offense was directly related to the job, license, permit, or certificate sought. Senate Bill 2152 also required state agencies and regulatory boards to submit a report to the Governor and legislative officers outlining restrictions on the employment of ex-offenders and alternatives compatible with protecting public safety. Although the bill did not pass, the agencies and boards have made significant progress in removing employment and licensing disqualifications that are based upon whether the applicant has lost his or her civil rights.

Lack of restoration of civil rights has proven to be a barrier for inmates to obtain employment in the private sector as well. In April 2007, the Governor and Cabinet changed the Rules of Executive Clemency to make more convicted felons who have completed their sentences eligible for restoration of civil rights. This has resulted in a significant increase in the number of ex-felons who have their civil rights restored. The Florida Parole Commission is responsible for the restoration process, but the department played a large role in the initial process of reviewing files of already-released persons to determine whether they were eligible for restoration under the new rules. The department continues to work with the commission in providing information about upcoming releases and to fulfill its statutory duty to educate inmates about the availability of restoration.<sup>7</sup>

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<sup>6</sup> OPPAGA Report No. 07-14, *supra*, which examined completion rates over the 2005-2006 time period.

<sup>7</sup> See Senate Interim Project Report 2008-114, Rules for Restoration of Civil Rights for Felons and Impacts on Obtaining

### ***Community Work Release***

Work release is a transition program through which the department selects inmates to work at paid employment in the community while they serve the remainder of their sentence. The department is statutorily authorized to place an inmate in work release programs during the last 36 months of his or her sentence, but the department has limited that time to 14 months by rule. Inmates who are on work release have jobs in the community, but live at a non-secure correctional facility. Work release inmates are required to pay room and board, victim restitution, and to contribute to savings. The program is designed to give inmates a chance to enhance employment skills and to re-establish ties with family and the community prior to release.

The department's use of work release as a transition program has fluctuated over time since the first work release program was initiated in 1967.<sup>8</sup> In 2006, there were 2,997 work release beds in 29 centers. This was the largest number of beds since 1996 and an 847 bed increase from the lowest point in 2001. However, the percentage of community work release inmates compared to the total population has declined from 4.0 percent to 3.3 percent since 1996.<sup>9</sup> OPPAGA has called for the department to expand the use of work release, but the department is limited by an internal policy that requires it to have a bed available in a secure facility for every inmate in a contracted work release facility.<sup>10</sup>

The department recently announced that it will be opening a new type of correctional facility, called a transition facility, as the newly acquired Demilley Correctional Institution in Polk County. The transition facility will house approximately 300 inmates who are in the last 3 years of their sentence and will provide substance abuse treatment programs, vocational and academic education, and re-entry skill training. After a minimum of 10 months in the facility, successful inmates will be moved into work release centers to serve the remainder of their sentence.<sup>11</sup>

### ***Assistance with Job Placement***

The department has entered into a memorandum of agreement with Workforce Florida Incorporated and the Agency for Workforce Innovation. The agreement establishes cooperative relationships with local Workforce Boards and One-Stop Centers to facilitate statewide job placements and community resource referrals for ex-offenders.

### **Substance Abuse Programs**

All inmates are screened to determine substance abuse treatment needs when they are admitted to the correctional system. Each inmate is assigned a priority for treatment based upon the severity of addiction, previous treatment, criminal history, sentencing authority's treatment recommendations, and forecasted release date. The inmate is required to participate in substance abuse treatment if a treatment slot becomes available. Unfortunately, relatively few of the inmates who need substance abuse treatment receive it.

Approximately two-thirds of inmates are identified as needing substance abuse treatment. Only 20 percent of the 25,901 inmates who were released during FY 2006-2007 with an identified need for substance abuse treatment received the needed services. As with educational programs, funding for substance abuse treatment programs has decreased radically since FY 2000-2001. In FY 2000-2001, 39,870 inmates were identified as needing treatment, with 10,547 of them receiving treatment in one of the 4,569 slots at 86 facilities. In FY 2005-2006, 56,392 inmates were identified as needing treatment, with 8,865 receiving it in one of 2,235 treatment slots at 27 facilities. Furthermore, a higher percentage of the treatment slots are in shorter-term outpatient programs, which are less effective in reducing recidivism.<sup>12</sup>

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Occupational Licenses and Other Opportunities, December 2007.

<sup>8</sup> A thorough discussion of the history of the operation and policies concerning work release can be found in Senate Interim Project 2004-127, A Review of the Department of Corrections' Inmate Work-Release Law, January 2004.

<sup>9</sup> See Senate Interim Project 2004-127, *supra*, and OPPAGA Report Number 07-17, Higher Priority Should Be Given to Transition Services to Reduce Inmate Recidivism, February 2007.

<sup>10</sup> OPPAGA Report No. 07-17, *supra*.

<sup>11</sup> "A New Transition: Officials Tour Demilley Correctional Institution" viewed at <http://www.newschief.com> on September 22, 2008.

<sup>12</sup> OPPAGA Report No. 07-14, *supra*.

The department's data reflect that for the first 24 months after release, former inmates who had completed a substance abuse program are recommitted to prison at a rate that is 10 percent less than inmates who did not receive treatment. Based upon this historical rate, providing substance abuse treatment to all of the inmates who were released in FY 2006-2007 with a need for treatment would result in 500 fewer commitments to prison.

There are two primary substance abuse treatment programs for inmates who are still in the department's custody. Residential Therapeutic Community programs house participants together in a dormitory at the institution apart from the institution's general population. Inmates receive continuous services over a 9 to 12 month period. In FY 2006-2007, 1124 inmates participated in a residential therapeutic community program. Intensive Outpatient programs provide services to inmates who continue to live among the institution's general population. These inmates receive counseling for half a day at least four times a week for four to six months. In FY 2006-2007, 4571 inmates participated in intensive outpatient programs.

### **Mental Health Transition Services**

The department has a memorandum of agreement with the Department of Children and Family Services to ensure that inmates with severe and persistent mental illnesses have access to mental health services after release. Those inmates who are not going to be hospitalized under the Baker Act are scheduled for an appointment with a community mental health provider within 30 days of their release. The two departments have also worked together to develop a web-based database system to serve as the referral and tracking mechanism for the aftercare program.

At least 45 days prior to release, a Mental Health Aftercare Specialist completes SSI/SSDI applications for inmates who may qualify for benefits due to diagnosis with a psychotic disorder, bipolar disorder, or major depressive disorder. In addition, all inmates who are receiving medication for a mental or physical illness receive a 30-day supply upon release. During the period from January to September 2008, 1556 inmates were referred for aftercare services and 450 SSI/SSDI applications were completed and forwarded to the Social Security Administration on behalf of inmates.

### **Transitional Housing**

The department reports that 21 percent of inmates released in FY 2005-2006 indicated a need for assistance with housing on their need assessment form. While many released inmates are able to live with family at least while they get readjusted, this is not an option for all. Housing has proved to be a particularly difficult or impossible task for releasees who are medically needy or who are sex offenders. Facilities such as nursing homes and assisted living facilities will not always accept inmates with special medical needs, which often results in inmates requesting that their prison sentences be extended until proper housing can be secured. The problem of finding housing is exacerbated for released sex offenders, who are limited in where they can live by local and state residency restrictions.<sup>13</sup>

Six months before release, the department and the inmate begin working to locate suitable housing within the community. Most inmates obtain housing with family or in a traditional housing setting such as an apartment or motel. The department also places some releasees in contracted transitional housing programs that are either faith-based or secular. These housing programs are voluntary and require participation in drug and substance abuse prevention services. The maximum stay in faith-based transitional housing is one year, while releasees in secular transitional housing are limited to a six month stay.

As with other transition programs, funding constraints limit the number of eligible inmates who can be provided with transitional housing. The initial allocation for substance abuse treatment transitional housing included 400 faith-based beds. Currently, there are only 194 transition beds statewide. All of these beds are in faith-based programs because the appropriation for transitional housing can only be used for faith-based beds. Secular beds have been provided by Bridges of America pursuant to a line item appropriation in recent years. However, the appropriation was not renewed for FY 2008-2009 and the contract for the 77 secular beds ended in June.

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<sup>13</sup> A thorough discussion of sex offender residency restrictions can be found in the bill analysis to CS/CS/SB 1430 from the 2008 Legislative session.

## **Recent Initiatives**

### ***Identification and Social Security Cards***

Without proper identification and documentation upon release, inmates may be unable to acquire public assistance, legitimate transportation or employment, and housing. The inmate identification card carries an inherent stigma and also is not always accepted as identification. The department has explored several options to provide released inmates with proper identification and documentation.

The department conducted a small pilot program with the Department of Highway Safety and Motor Vehicles (DHSMV) at Wakulla Correctional Institution beginning in August 2007. Thirty-four inmates participated, and thirty-one received identification cards. In the course of conducting the pilot project, the department discovered that 85 percent of inmates in the correctional system have a record of previous identification with the DHSMV. At the time, inmates who previously had a driver's license would have been able to easily obtain a replacement from the local driver's license office upon release. However, new rules effective October 1, 2008 in accordance with the federal REAL ID Act have changed documentation requirements and will make obtaining a new driver's license or identification card more difficult.

The department is in the process of entering into a Memorandum of Understanding with the Social Security Administration to obtain replacement Social Security cards for inmates before they are released. It is anticipated that the agreement will be in place in late 2008.

### ***Re-entry Advisory Council***

The Re-Entry Advisory Council is a group of state agency heads, community leaders, and legislators tasked with addressing the issues of offender reentry and assisting in the formation of a statewide strategy to reduce recidivism within the state correctional system. This council will not only propose initiatives to affect successful re-entry, but will also allow the State to be eligible for federal funding through the Second Chance Act to implement the initiatives.

A Restoration of Civil Rights Summit was held in Tallahassee on July 18 and 19, 2008. The summit had breakout sessions focusing on the assessment of Florida's re-entry status and identifying areas for improvement. Topics included Offender Supervision and Programs, Post Release Employment, Substance Abuse, Civil Rights, Criminal Thinking, Educational and Vocational programs, Housing, Mental Health and Health Services, and Mentoring.

The Advisory Council was tasked with compiling the recommendations from the Restoration of Rights Summit and subsequent council meetings to build the department's reentry strategy. It has since held an organizational meeting and has begun to hold working group meetings, which are accessible to members and the public by conference call.

### ***Federal Second Chance Act Grants***

Congress passed the Second Chance Act of 2007 (Public Law 110-199) in an attempt to help inmates safely and successfully transition back into the community. The Second Chance Act adds numerous grants and opportunities for extending re-entry efforts at the state and local levels. It provides for community and faith-based organizations to deliver mentoring and transitional services to inmates returning to the community. It will also help connect inmates to mental health and substance abuse treatment, expand job training and placement services, and facilitate transitional housing and case management services. The department has two grants funded under this act: the 2006 Prisoner Reentry Initiative (Targeting Lifetime Success) in Broward, Palm Beach, and Dade Counties, and the 2007 Prisoner Reentry Initiative (Bridges to Success) in Duval County.

## **Conclusion**

It is clear that the Department of Corrections is making serious efforts to fulfill its new mission of assisting inmates with reentry into the community, but its initiatives are seriously hampered by a lack of funding. Unless additional funding is obtained, it appears unlikely that the department will have a reasonable chance of achieving its goal of reducing recidivism to 20 percent.