

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1921 (PCB PS 03-15) Department of Corrections
SPONSOR(S): Public Safety & Crime Prevention
TIED BILLS: **IDEN./SIM. BILLS:** SB 2474 and SB 2476

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety & Crime Prevention</u>	<u>16 Y, 0 N</u>	<u>Whittier</u>	<u>De La Paz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Section 944.279, F.S., provides that at any time, a court may conduct an inquiry into whether any action or appeal brought by a prisoner was in good faith. A prisoner who is found by a court to have done any of the following is subject to disciplinary procedures pursuant to the rules of the Department of Corrections (DOC):

- brought a frivolous or malicious suit, action, claim, proceeding, or appeal in any court of this state or any federal court; or
- knowingly or with reckless disregard for the truth, brought false information or evidence before the court.

Currently, this section does not apply to criminal proceedings.

HB 1921 provides that the section apply to criminal proceedings or collateral criminal proceedings for filings on or after June 30, 2003.

Currently, inmates released from the Department of Corrections must complete a 100-hour comprehensive transition course that covers job readiness and life management skills. The law provides an exception for inmates released in an emergency situation.

This bill removes the requirement that the course be 100 hours in length and replaces language requiring that every inmate (released from incarceration) take the course with language requiring that inmates who meet criteria established by the department be required to take the course.

The Department of Corrections estimates that in order to comply with the **current** statutorily-mandated 100-hour program for **all** inmates released from incarceration at the 55 major institutions, an additional \$897,110 would need to be appropriated for FY 2003-2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1921.ps.doc
DATE: April 22, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Section 1

Section 944.279, F.S., provides that at any time, a court may conduct an inquiry into whether any action or appeal brought by a prisoner was in good faith. A prisoner who is found by a court to have done any of the following is subject to disciplinary procedures pursuant to the rules of the Department of Corrections (DOC or department):

- brought a frivolous or malicious suit, action, claim, proceeding, or appeal in any court of this state or any federal court; or
- knowingly or with reckless disregard for the truth, brought false information or evidence before the court.

Currently, this section does not apply to criminal proceedings.

Additionally, section 944.28(2)(a), F.S., provides that “[a]ll or any part of the gain-time earned by a prisoner according to the provisions of law in subject to forfeiture if such prisoner...is found by a court to have brought a frivolous suit, action, claim, proceeding, or appeal in any court; is found by a court to have knowingly or with reckless disregard for the truth brought false information or evidence before the court; or violates any law of the state or any rule or regulation of the department or institution.”

Since 1996, criminal courts have relied on s. 944.28, F.S., to enter orders declaring inmate filings to be frivolous and to request that the department take appropriate disciplinary action. Recently, the Florida Supreme Court quashed orders of and remanded cases to two separate district courts of appeal (*Hall v. State*¹ in 2000 and *Saucer v. State*² in 2001) holding that s. 944.279, F.S, which specifically excludes criminal proceedings or collateral criminal proceedings, is the basis for taking disciplinary action for frivolous filings. The Supreme Court found both cases to be collateral criminal actions and that the Department of Corrections could not require the inmates to forfeit applicable gain time as sanctions for frivolous lawsuits.

HB 1921 provides that the section shall apply to criminal proceedings or collateral criminal proceedings for filings on or after June 30, 2003.

¹ See 752 So.2d 575.

² See 779 So.2d 261.

Section 2

Sections 944.701 – 944. 708, F.S., encompass the Transition Assistance Program Act which is designed to reduce recidivism through successful reintegration of released inmates into the community.

Currently, inmates released from the Department of Corrections must complete a 100-hour comprehensive transition course that covers job readiness and life management skills. The law provides an exception for inmates released in an emergency situation. Most of the institutions outsource the course to local community colleges. Sixteen facilities are not located near a community college. Those institutions contract with Corrections Cable Company which uses satellite technology to conduct the course.

According to the department, “[n]ot every inmate is appropriate for placement in this class... Certain inmates with diminished mental capacity, as well as those with advanced skills and substantial support in the community, would be inappropriate for the program.”

Further, the department asserts that delivering the required 100 hours of training will require “adding many more facilitators for all populations...[and] information needed...could be delivered to many in less than the statutorily mandated 100 hours.” See Fiscal Comments.

The bill removes the requirement that the course be 100 hours in length and replaces language requiring that *every* inmate (released from incarceration) take the course with language requiring that inmates who meet criteria established by the department be required to take the course. This criteria is not specified in the bill. See Rule-Making Authority section.

Inmates who might be excluded by the criteria include those unable to attend due to medical or mental conditions as verified by medical personnel and those who are not incarcerated long enough to complete the course.

C. SECTION DIRECTORY:

Section 1: Amends s. 944.279, F.S., relating to frivolous filings in court by a prisoner.

Section 2: Amends s. 944.7065, F.S., relating to the transition course required for inmates.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See Fiscal Comments.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: See Fiscal Comments.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

Section 1

The reduction of frivolous lawsuits should result in a more efficient use of trial and appellate court time and resources, and more efficient use of clerks, state attorneys and public defenders.

Section 2

The Department of Corrections estimates that in order to comply with the current statutorily-mandated 100-hour program for all inmates released from incarceration at the 55 major institutions, an additional \$897,110 would need to be appropriated for FY 2003-2004.³

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A

2. Other: N/A

B. RULE-MAKING AUTHORITY:

Section 2 of the bill refers to inmates meeting criteria established by the department (for eligibility to take the 100-hour transition course); however, the bill does not authorize the department to promulgate a rule establishing the criteria. In order to comply with requirements of Florida's Administrative Procedure Act in Chapter 120, F.S., the provisions of this section may require a grant of rule-making authority for the department.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

³ The House General Appropriations Bill, HB 1789, does not include funding for this program for FY 2003-3004.