

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill increases the responsibilities of the Department of Corrections.

Promote personal responsibility -- This bill seeks to lessen the effect of incarceration upon the children of the inmate.

Empower families -- This bill seeks to lessen the effect of incarceration upon the children of the inmate.

B. EFFECT OF PROPOSED CHANGES:

Section 944.17, F.S., provides that any person sentenced to prison is placed in the custody of the Department of Corrections. Subsection (2) provides that every inmate is to be placed in the institution that the department selects, based upon the department's classification system. Subsection (7) provides that the department may transfer an inmate "as circumstances may require." The department has nearly unfettered discretion to place an inmate in any institution that the department deems appropriate.

Section 944.24, F.S., requires the department to create institutions designed for female inmates. Section 944.8031(1), F.S., expresses legislative intent regarding the importance of an inmate maintaining his or her family and community relationships.

Chapter 33-601.215, Florida Administrative Code, entitled "Classification – Transfer of Inmates", provides in part that,

Upon completion of the reception process, each inmate shall be assigned and transferred to the institution approved by the State Classification Team that might best facilitate his institutional progress. Inmates may subsequently be transferred from one institution to another; however, the goal of the classification system is to retain inmates at institutions for longer periods of time in order to reduce transfers and stabilize the inmate population. Inmates participating in academic, vocational, substance abuse or betterment programs will not be transferred to another institution prior to completion of the program unless the program is available at the receiving institution, or for purposes of population management or security and safety concerns specifically set forth in writing. Transfers are subject to review by the inmate grievance procedure.

Current procedures of the department specify that inmates are not assigned to specific institutions solely for the convenience of visiting. The primary criteria for assignment are the inmate's risk and needs factors. Inmate visits with approved family members or friends are encouraged for the positive purpose of maintaining home and community ties.

Additionally, Chapter 33.601.720, F. A. C., entitled "Sex Offender Visiting Restrictions", provides: "Inmates shall not be permitted to visit with minors who are victims of their offenses unless a family court makes the determination that the visitation is necessary."

Visitation of children is covered in Chapter 33.601.715, F.A.C., entitled "Visiting Application Initiation Process", which provides that "during the reception process, classification staff shall develop and maintain a computerized list of the inmate's immediate family members for placement on the automated visiting record. Placement of a name on the automated visiting record in and of itself is not approval to visit."

The distribution of inmates with children is as follows:¹

Inmates With Children	Male Inmates	Female Inmates	Total Inmates
Inmates in Prison on January 7, 2005	77,324	5,498	82,822
Inmates with One or More Minor Children	31,109	3,235	34,344
Percentage of Inmates with One or More Minor Children	40%	59%	41%
Distribution of Number of Minor Children			
1	15,622	1,165	16,787
2	8,761	970	9,731
3	3,832	593	4,425
4	1,689	284	1,973
5	695	141	836
6 or more	510	82	592
Total Inmates with One or More Minor Children	31,109	3,235	34,344

Effect of Bill

This bill creates an unnumbered section of law regarding the placement of inmates. It expresses a legislative intent that the Department of Corrections should consider locating an incarcerated parent near his or her children “whenever possible” to facilitate contact with their minor children through visitation. The department is required to collect information concerning minor children, and is required to annually analyze the information to determine if incarcerated parents are housed in close proximity to their children.

The requirement to consider placing an inmate in close proximity to a particular child does not apply to an inmate if the sentencing court has restricted the inmate’s contact with the minor child.

This bill amends s. 944.17, F.S., to consider, when transferring an inmate between institutions, whether the inmate would benefit from being placed in closer proximity to his or her children.

This bill amends 944.24, F.S., to require the department, where possible, to place a female inmate in close proximity to her child or children, unless the sentencing court has restricted contact between the inmate and the child.

This bill amends the legislative intent at s. 944.8031, F.S., to add a reference to the importance of visitation with minor children.

C. SECTION DIRECTORY:

Section 1 creates an unnumbered section of law requiring the Department of Corrections to consider placing an inmate in an institution near his or her children.

Section 2 amends s. 944.17, F.S., to provide for transfer of an inmate to an institution near his or her children.

¹ Chart prepared by the Department of Corrections, analysis undated, received by the Criminal Justice Committee on March 23, 2005.

Section 3 amends s. 944.224, F.S., regarding placement of female inmates in an institution near her children.

Section 4 amends s. 944.8031, F.S., amending legislative intent regarding inmate placement to add a finding that one factor in inmate placement should be proximity to children.

Section 5 provides an effective date of October 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the Department of Corrections, the cost of updating the department's Computer Assisted Reception Process (CARP) and Offender Based Information System (OBIS) is estimated at \$12,150. Also, eight additional positions would be needed to collect this information:

Classification	Position Costs	FY 2005-06		FY 2006-07		FY 2007-08	
		#	Total Annual Costs	#	Total Annual Costs	#	Total Annual Costs
Sr. Classification Officer	\$50,683	5	\$253,415	5	\$259,750	5	\$266,086
Sr. Classification Officer-w/ CAD	54,870	3	164,610	3	168,725	3	173,664
Total salaries & benefits		8	\$418,025	8	\$428,475	8	\$439,750
Recurring expense - Prof	\$ 5,119		\$ 40,952		\$ 40,952		\$ 40,952
Non-recurring expense – Prof	3,230		25,840		-		-
Total expenses			\$ 66,792		\$ 40,952		\$ 40,952
OCO (Workstation) – Prof	\$ 1,800	8	\$ 14,400	8	-	8	-
Total		8	\$499,217	8	\$469,427	8	\$480,702

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Placing inmates in closer proximity to their children may lower the cost to families who regularly visit the inmate. The impact cannot be estimated.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

This bill may be subject to an Equal Protection challenge because it treats male and female inmates differently.

B. RULE-MAKING AUTHORITY:

The Department of Corrections believes that this bill would require new rulemaking, and that the provisions of this bill do not provide sufficient rulemaking power.

C. DRAFTING ISSUES OR OTHER COMMENTS:

These comments supplied by the Department of Corrections:²

The bill identifies two factors for the department to consider when transferring inmates: "important security and medical considerations". However, to appropriately manage a large, diverse and risk prone inmate population, the department must also consider other primary important factors prior to a decision to transfer an inmate and then as to which facility to place the inmate. These factors include an inmate's institutional adjustment while in prison; his/her program needs and where those programs are located; needs of the department related to bed capacity, potential need for the inmates work skills; design and mission of correctional facilities, etc. Additionally, transfer decisions and the opportunity for an inmate to request a transfer is used as an incentive throughout the system to motivate inmates for both improved adjustment and program participation.

Current department policy allows inmates to earn a transfer to be closer to their family and by extension their children. This is handled through the "Good Adjustment Transfer" request process. After an inmate has served a minimum amount of time (based upon their overall time remaining to serve) at a specific facility, they or their families may request a "Good Adjustment Transfer" to another facility of their choice. If the inmate has displayed positive adjustment, participated in recommended programs, and there is no conflict with the requested facility (medical, security, programs, etc.) then a recommendation will be acted upon.

Additionally, institutional locations and different institutional missions does not easily facilitate placement of inmates based solely on the proximity to their minor children. For example, a large number of inmates are sentenced from the larger southern Florida counties; yet, the department's 53 major institutions are located all over the state. Thus, upon completion of the reception process, new inmates must be routinely sent to correctional facilities throughout the state to match available vacant bed capacity, security and custody levels, facility mission, health services provided and program space available.

² Analysis prepared by the Department of Corrections, analysis undated, received by the Criminal Justice Committee on March 23, 2005.

The department's method for transferring inmates back to close proximity to their families is through the "Good Adjustment Transfer" described above. In this manner, those inmates who are most deserving (through displaying positive adjustment and participating in programs) are prioritized for transfer to a facility of their choosing, typically closer to family although not always in "close" proximity. This provides an incentive for the inmate population.

Further provisions of this bill will also require modifications to computerized collection systems currently in place and will probably require creation of an additional software system/database to accommodate the bill's requirement of mapping and distance calculations.

In regards to the requirement of collecting information on minor children, some of the information required is already collected through self-reporting by inmates during reception, however, it is not reliable and in many instances is unknown by the inmate. In an attempt to accurately gather current information for the assessment as well as the new requirements, department staff would have to spend additional time and effort to collect the information, primarily through correspondence (letter/phone) with family members and social service agencies as well as possible internet research. Additionally, when inmate families' change addresses, the new address is not routinely known to staff, thus affecting the currency and accuracy of the information. Antidotal information from three of the department's reception centers reveals that approximately 50% of the information required for the annual assessment that we routinely ask for is unknown to the inmate in addition to the information required that we do not currently collect. It is estimated that with over 39,000 new inmate receipts each year, 8 additional FTEs (two at each male reception center and one at each female reception center) would be required to collect the information on a continuing basis.

The bill does not fund the cost of staff assessment of information or automation to meet the legislative intent.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

n/a