



Criminal and Civil Justice Appropriations Committee

Thursday, March 4, 2010

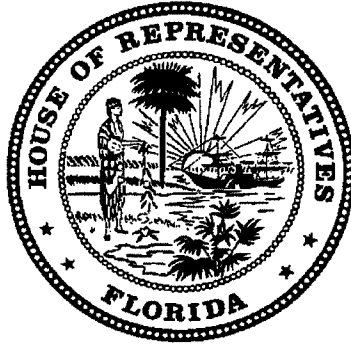
10:00 AM – 12:00 PM

102 HOB - Reed Hall

Meeting Packet

**Larry Cretul
Speaker**

**Sandra Adams
Chair**



AGENDA

Criminal & Civil Justice Appropriations Committee

March 4, 2010
10:00 a.m. – 12:00 p.m.
102 HOB – Reed Hall

- I. Call to order/Roll Call
- II. Opening Remarks
- III. Welcome/Introductions
- IV. Consideration of the following bill(s):
 - HB 47 Court Actions Involving Families by Planas
 - HB 183 Special Organized Crime Investigators by Pafford
 - HB 261 Parole Interview Dates for Certain Inmates by Evers
 - HB 369 Murder by Snyder
- V. Presentation by Florida Alcohol & Drug Abuse Association
Mark Fontaine, Executive Director
- VI. Closing Remarks and Adjournment

HB047

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 47
SPONSOR(S): Planas
TIED BILLS:

Court Actions Involving Families

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Civil Justice & Courts Policy Committee	10 Y, 0 N	De La Paz	De La Paz
2)	Criminal & Civil Justice Appropriations Committee		Darity <i>J. Darity</i>	Davis <i>ED Davis</i>
3)	Criminal & Civil Justice Policy Council			
4)	Full Appropriations Council on Education & Economic Development			
5)				

SUMMARY ANALYSIS

This bill provides purposes and legislative intent regarding the implementation of a unified family court program in the circuit courts. The additional purposes and legislative intent include:

- To provide all children and families with a fully integrated, comprehensive approach to handling all cases that involve children and families, while at the same time resolving family disputes in a fair, timely, efficient, and cost-effective manner.
- That the courts embrace methods of resolving disputes that do not cause additional emotional harm to the children and families who are required to interact with the judicial system.
- To support the development of a unified family court and to support the state courts system's efforts to improve the resolution of disputes involving children and families through a fully integrated, comprehensive approach.
- To focus on the needs of children who are involved in the litigation, refer families to resources that will make their relationships stronger, coordinate their cases to provide consistent results, and strive to leave families in better condition than when they entered the system.

This bill does not appear to have a fiscal impact on state or local governments and is effective upon becoming a law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Currently, legal issues involving children and families are frequently addressed by different divisions of the court, particularly in larger judicial circuits. In many cases, the parties are appearing before a different judge in each proceeding. Therefore, it is possible that a judge may be unaware of previous or pending related legal matters involving the same children or family before the court. Unified family courts are intended to address this problem.

Florida's initiative for a unified family court began as a result of increasing demands being placed on the judicial system by the large volume of cases involving children and families. As the number of family court filings significantly increased, the Supreme Court noted that it must seek to improve productivity and conserve resources. Against this background, the Court created the Family Court Steering Committee in 1994 to, among other things, advise the Court about the circuits' responses to families in litigation and make recommendations on the characteristics of a model family court.

In 2005, the Legislature implemented recommendations by the Florida Supreme Court related to the operation of a unified family court system. These recommendations were to:

- Allow the court system to create a unique identifier to identify all court cases related to the same family.
- Provide that specified orders entered in dependency court take precedence over court orders entered in other civil proceedings.
- Provide that final orders and evidence admitted in dependency actions are admissible in evidence in subsequent civil proceedings under certain circumstances.

This bill provides additional purposes and legislative intent regarding the implementation of a unified family court program in the circuit courts. These additional purposes are added to chapter 39, F.S., pertaining to proceedings relating to children; chapter 61, F.S., pertaining to dissolution of marriage, support, and custody; chapter 63, F.S., pertaining to adoption; section 68.07, F.S., pertaining to name change; chapter 88, F.S., pertaining to the Uniform Interstate Family Support Act; chapter 741, F.S., pertaining to marriage and domestic violence; chapter 742, F.S., pertaining to determination of parentage; chapter 743, F.S., pertaining to disability of nonage of minors removed; chapter 984, F.S., pertaining to children and families in need of services; chapter 985, F.S., pertaining to the juvenile

justice system; and part II of chapter 1003, F.S., pertaining to school attendance. The additional purposes and legislative intent include:

- To provide all children and families with a fully integrated, comprehensive approach to handling all cases that involve children and families, while at the same time resolving family disputes in a fair, timely, efficient, and cost-effective manner.
- That the courts embrace methods of resolving disputes that do not cause additional emotional harm to the children and families who are required to interact with the judicial system.
- To support the development of a unified family court and to support the state courts system's efforts to improve the resolution of disputes involving children and families through a fully integrated, comprehensive approach.
- To focus on the needs of children who are involved in the litigation, refer families to resources that will make their relationships stronger, coordinate their cases to provide consistent results, and strive to leave families in better condition than when they entered the system.

B. SECTION DIRECTORY:

Section 1. amends s. 39.001, F.S., regarding the purposes of ch. 39, F.S.

Section 2. amends s. 61.001, F.S., regarding the purposes of ch. 61, F.S.

Section 3. amends s. 63.022, F.S., regarding legislative intent related to ch. 63, F.S.

Section 4. amends s. 68.07, F.S., regarding legislative intent related to petitions for a name change.

Section 5. creates s. 88.1041, F.S., regarding legislative intent applicable to ch. 88, F.S.

Section 6. amends s. 741.2902, F.S., regarding legislative intent applicable to the offense of domestic violence.

Section 7. creates s. 742.016, F.S., regarding legislative intent related to determination of parentage.

Section 8. creates s. 743.001, F.S., regarding legislative intent related to ch. 743, F.S.

Section 9. amends s. 984.01, F.S., regarding legislative intent related to ch. 984, F.S.

Section 10. amends s. 985.02, F.S., regarding legislative intent related to ch. 985, F.S. (juvenile justice system).

Section 11. creates s. 1003.201, F.S., regarding legislative intent related to ch. 1003, F.S.

Section 12. provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill does not appear to have a fiscal impact on state or local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

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1 A bill to be entitled
 2 An act relating to court actions involving families;
 3 amending ss. 39.001, 61.001, 63.022, 68.07, 741.2902,
 4 984.01, and 985.02, F.S., and creating ss. 88.1041,
 5 742.016, 743.001, and 1003.201, F.S.; providing additional
 6 purposes relating to implementing a unified family court
 7 program in the circuit courts; providing legislative
 8 intent; providing an effective date.

9

10 Be It Enacted by the Legislature of the State of Florida:

11

12 Section 1. Paragraph (o) is added to subsection (1) of
 13 section 39.001, Florida Statutes, to read:

14 39.001 Purposes and intent; personnel standards and
 15 screening.--

16 (1) PURPOSES OF CHAPTER.--The purposes of this chapter
 17 are:

18 (o) To provide all children and families with a fully
 19 integrated, comprehensive approach to handling all cases that
 20 involve children and families and a resolution of family
 21 disputes in a fair, timely, efficient, and cost-effective
 22 manner. It is the intent of the Legislature that the courts of
 23 this state embrace methods of resolving disputes that do not
 24 cause additional emotional harm to the children and families who
 25 are required to interact with the judicial system. It is the
 26 intent of the Legislature to support the development of a
 27 unified family court and to support the efforts of the state
 28 courts system to improve the resolution of disputes involving

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29 children and families through a fully integrated, comprehensive
 30 approach that includes coordinated case management; the concept
 31 of "one family, one judge"; collaboration with the community for
 32 referral to needed services; and methods of alternative dispute
 33 resolution. The Legislature supports the goal that the legal
 34 system focus on the needs of children who are involved in the
 35 litigation, refer families to resources that will make families'
 36 relationships stronger, coordinate families' cases to provide
 37 consistent results, and strive to leave families in better
 38 condition than when the families entered the system.

39 Section 2. Subsection (2) of section 61.001, Florida
 40 Statutes, is amended to read:

41 61.001 Purpose of chapter.--

42 (2) Its purposes are:

43 (a) To preserve the integrity of marriage and to safeguard
 44 meaningful family relationships;

45 (b) To promote the amicable settlement of disputes that
 46 arise between parties to a marriage; ~~and~~

47 (c) To mitigate the potential harm to the spouses and
 48 their children caused by the process of legal dissolution of
 49 marriage; and

50 (d) To provide all children and families with a fully
 51 integrated, comprehensive approach to handling all cases that
 52 involve children and families and a resolution of family
 53 disputes in a fair, timely, efficient, and cost-effective
 54 manner. It is the intent of the Legislature that the courts of
 55 this state embrace methods of resolving disputes that do not
 56 cause additional emotional harm to the children and families who

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57 are required to interact with the judicial system. It is the
 58 intent of the Legislature to support the development of a
 59 unified family court and to support the efforts of the state
 60 courts system to improve the resolution of disputes involving
 61 children and families through a fully integrated, comprehensive
 62 approach that includes coordinated case management; the concept
 63 of "one family, one judge"; collaboration with the community for
 64 referral to needed services; and methods of alternative dispute
 65 resolution. The Legislature supports the goal that the legal
 66 system focus on the needs of children who are involved in the
 67 litigation, refer families to resources that will make families'
 68 relationships stronger, coordinate families' cases to provide
 69 consistent results, and strive to leave families in better
 70 condition than when the families entered the system.

71 Section 3. Subsection (6) is added to section 63.022,
 72 Florida Statutes, to read:

73 63.022 Legislative intent.--

74 (6) It is the intent of the Legislature to provide all
 75 children and families with a fully integrated, comprehensive
 76 approach to handling all cases that involve children and
 77 families and a resolution of family disputes in a fair, timely,
 78 efficient, and cost-effective manner. It is the intent of the
 79 Legislature that the courts of this state embrace methods of
 80 resolving disputes that do not cause additional emotional harm
 81 to the children and families who are required to interact with
 82 the judicial system. It is the intent of the Legislature to
 83 support the development of a unified family court and to support
 84 the efforts of the state courts system to improve the resolution

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85 of disputes involving children and families through a fully
 86 integrated, comprehensive approach that includes coordinated
 87 case management; the concept of "one family, one judge";
 88 collaboration with the community for referral to needed
 89 services; and methods of alternative dispute resolution. The
 90 Legislature supports the goal that the legal system focus on the
 91 needs of children who are involved in the litigation, refer
 92 families to resources that will make families' relationships
 93 stronger, coordinate families' cases to provide consistent
 94 results, and strive to leave families in better condition than
 95 when the families entered the system.

96 Section 4. Subsection (10) is added to section 68.07,
 97 Florida Statutes, to read:

98 68.07 Change of name.--

99 (10) It is the intent of the Legislature to provide all
 100 children and families with a fully integrated, comprehensive
 101 approach to handling all cases that involve children and
 102 families and a resolution of family disputes in a fair, timely,
 103 efficient, and cost-effective manner. It is the intent of the
 104 Legislature that the courts of this state embrace methods of
 105 resolving disputes that do not cause additional emotional harm
 106 to the children and families who are required to interact with
 107 the judicial system. It is the intent of the Legislature to
 108 support the development of a unified family court and to support
 109 the efforts of the state courts system to improve the resolution
 110 of disputes involving children and families through a fully
 111 integrated, comprehensive approach that includes coordinated
 112 case management; the concept of "one family, one judge";

113 collaboration with the community for referral to needed
 114 services; and methods of alternative dispute resolution. The
 115 Legislature supports the goal that the legal system focus on the
 116 needs of children who are involved in the litigation, refer
 117 families to resources that will make families' relationships
 118 stronger, coordinate families' cases to provide consistent
 119 results, and strive to leave families in better condition than
 120 when the families entered the system.

121 Section 5. Section 88.1041, Florida Statutes, is created
 122 to read:

123 88.1041 Legislative intent.--It is the intent of the
 124 Legislature to provide all children and families with a fully
 125 integrated, comprehensive approach to handling all cases that
 126 involve children and families and a resolution of family
 127 disputes in a fair, timely, efficient, and cost-effective
 128 manner. It is the intent of the Legislature that the courts of
 129 this state embrace methods of resolving disputes that do not
 130 cause additional emotional harm to the children and families who
 131 are required to interact with the judicial system. It is the
 132 intent of the Legislature to support the development of a
 133 unified family court and to support the efforts of the state
 134 courts system to improve the resolution of disputes involving
 135 children and families through a fully integrated, comprehensive
 136 approach that includes coordinated case management; the concept
 137 of "one family, one judge"; collaboration with the community for
 138 referral to needed services; and methods of alternative dispute
 139 resolution. The Legislature supports the goal that the legal
 140 system focus on the needs of children who are involved in the

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141 litigation, refer families to resources that will make families'
 142 relationships stronger, coordinate families' cases to provide
 143 consistent results, and strive to leave families in better
 144 condition than when the families entered the system.

145 Section 6. Subsection (3) is added to section 741.2902,
 146 Florida Statutes, to read:

147 741.2902 Domestic violence; legislative intent with
 148 respect to judiciary's role.--

149 (3) It is the intent of the Legislature to provide all
 150 children and families with a fully integrated, comprehensive
 151 approach to handling all cases that involve children and
 152 families and a resolution of family disputes in a fair, timely,
 153 efficient, and cost-effective manner. It is the intent of the
 154 Legislature that the courts of this state embrace methods of
 155 resolving disputes that do not cause additional emotional harm
 156 to the children and families who are required to interact with
 157 the judicial system as long as such methods do not conflict with
 158 the legislative intent expressed in subsections (1) and (2). It
 159 is the intent of the Legislature to support the development of a
 160 unified family court and to support the efforts of the state
 161 courts system to improve the resolution of disputes involving
 162 children and families through a fully integrated, comprehensive
 163 approach that includes coordinated case management; the concept
 164 of "one family, one judge"; collaboration with the community for
 165 referral to needed services; and methods of alternative dispute
 166 resolution. Case management or alternative dispute resolution
 167 processes must comply with existing laws and court rules
 168 governing the use of mediation, case management, and alternative

169 dispute resolution in cases involving injunctions for protection
 170 brought under this chapter. The Legislature supports the goal
 171 that the legal system focus on the needs of children who are
 172 involved in the litigation, refer families to resources that
 173 will make families' relationships stronger, coordinate families'
 174 cases to provide consistent results, and strive to leave
 175 families in better condition than when the families entered the
 176 system.

177 Section 7. Section 742.016, Florida Statutes, is created
 178 to read:

179 742.016 Legislative intent.--It is the intent of the
 180 Legislature to provide all children and families with a fully
 181 integrated, comprehensive approach to handling all cases that
 182 involve children and families and a resolution of family
 183 disputes in a fair, timely, efficient, and cost-effective
 184 manner. It is the intent of the Legislature that the courts of
 185 this state embrace methods of resolving disputes that do not
 186 cause additional emotional harm to the children and families who
 187 are required to interact with the judicial system. It is the
 188 intent of the Legislature to support the development of a
 189 unified family court and to support the efforts of the state
 190 courts system to improve the resolution of disputes involving
 191 children and families through a fully integrated, comprehensive
 192 approach that includes coordinated case management; the concept
 193 of "one family, one judge"; collaboration with the community for
 194 referral to needed services; and methods of alternative dispute
 195 resolution. The Legislature supports the goal that the legal
 196 system focus on the needs of children who are involved in the

197 litigation, refer families to resources that will make families'
 198 relationships stronger, coordinate families' cases to provide
 199 consistent results, and strive to leave families in better
 200 condition than when the families entered the system.

201 Section 8. Section 743.001, Florida Statutes, is created
 202 to read:

203 743.001 Legislative intent.--It is the intent of the
 204 Legislature to provide all children and families with a fully
 205 integrated, comprehensive approach to handling all cases that
 206 involve children and families and a resolution of family
 207 disputes in a fair, timely, efficient, and cost-effective
 208 manner. It is the intent of the Legislature that the courts of
 209 this state embrace methods of resolving disputes that do not
 210 cause additional emotional harm to the children and families who
 211 are required to interact with the judicial system. It is the
 212 intent of the Legislature to support the development of a
 213 unified family court and to support the efforts of the state
 214 courts system to improve the resolution of disputes involving
 215 children and families through a fully integrated, comprehensive
 216 approach that includes coordinated case management; the concept
 217 of "one family, one judge"; collaboration with the community for
 218 referral to needed services; and methods of alternative dispute
 219 resolution. The Legislature supports the goal that the legal
 220 system focus on the needs of children who are involved in the
 221 litigation, refer families to resources that will make families'
 222 relationships stronger, coordinate families' cases to provide
 223 consistent results, and strive to leave families in better
 224 condition than when the families entered the system.

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225 Section 9. Paragraph (g) is added to subsection (1) of
 226 section 984.01, Florida Statutes, to read:

227 984.01 Purposes and intent; personnel standards and
 228 screening.--

229 (1) The purposes of this chapter are:

230 (g) To provide all children and families with a fully
 231 integrated, comprehensive approach to handling all cases that
 232 involve children and families and a resolution of family
 233 disputes in a fair, timely, efficient, and cost-effective
 234 manner. It is the intent of the Legislature that the courts of
 235 this state embrace methods of resolving disputes that do not
 236 cause additional emotional harm to the children and families who
 237 are required to interact with the judicial system. It is the
 238 intent of the Legislature to support the development of a
 239 unified family court and to support the efforts of the state
 240 courts system to improve the resolution of disputes involving
 241 children and families through a fully integrated, comprehensive
 242 approach that includes coordinated case management; the concept
 243 of "one family, one judge"; collaboration with the community for
 244 referral to needed services; and methods of alternative dispute
 245 resolution. The Legislature supports the goal that the legal
 246 system focus on the needs of children who are involved in the
 247 litigation, refer families to resources that will make families'
 248 relationships stronger, coordinate families' cases to provide
 249 consistent results, and strive to leave families in better
 250 condition than when the families entered the system.

251 Section 10. Paragraph (j) is added to subsection (1) of
 252 section 985.02, Florida Statutes, to read:

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253 985.02 Legislative intent for the juvenile justice
 254 system.--

255 (1) GENERAL PROTECTIONS FOR CHILDREN.--It is a purpose of
 256 the Legislature that the children of this state be provided with
 257 the following protections:

258 (j) A fully integrated, comprehensive approach to handling
 259 all cases that involve children and families and a resolution of
 260 family disputes in a fair, timely, efficient, and cost-effective
 261 manner. It is the intent of the Legislature that the courts of
 262 this state embrace methods of resolving disputes that do not
 263 cause additional emotional harm to the children and families who
 264 are required to interact with the judicial system. It is the
 265 intent of the Legislature to support the development of a
 266 unified family court and to support the efforts of the state
 267 courts system to improve the resolution of disputes involving
 268 children and families through a fully integrated, comprehensive
 269 approach that includes coordinated case management; the concept
 270 of "one family, one judge"; collaboration with the community for
 271 referral to needed services; and methods of alternative dispute
 272 resolution. The Legislature supports the goal that the legal
 273 system focus on the needs of children who are involved in the
 274 litigation, refer families to resources that will make families'
 275 relationships stronger, coordinate families' cases to provide
 276 consistent results, and strive to leave families in better
 277 condition than when the families entered the system. This
 278 section may not be construed to contravene legislative intent
 279 provided in this chapter relating to protecting the public from
 280 acts of delinquency, ensuring that juveniles found to have

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281 committed a delinquent act understand the consequences and
 282 serious nature of such behavior, and transferring juveniles from
 283 the juvenile justice system to the adult system as provided in
 284 this chapter.

285 Section 11. Section 1003.201, Florida Statutes, is created
 286 to read:

287 1003.201 Legislative intent.--It is the intent of the
 288 Legislature to provide all children and families with a fully
 289 integrated, comprehensive approach to handling all cases that
 290 involve children and families and a resolution of family
 291 disputes in a fair, timely, efficient, and cost-effective
 292 manner. It is the intent of the Legislature that the courts of
 293 this state embrace methods of resolving disputes that do not
 294 cause additional emotional harm to the children and families who
 295 are required to interact with the judicial system. It is the
 296 intent of the Legislature to support the development of a
 297 unified family court and to support the efforts of the state
 298 courts system to improve the resolution of disputes involving
 299 children and families through a fully integrated, comprehensive
 300 approach that includes coordinated case management; the concept
 301 of "one family, one judge"; collaboration with the community for
 302 referral to needed services; and methods of alternative dispute
 303 resolution. The Legislature supports the goal that the legal
 304 system focus on the needs of children who are involved in the
 305 litigation, refer families to resources that will make families'
 306 relationships stronger, coordinate families' cases to provide
 307 consistent results, and strive to leave families in better
 308 condition than when the families entered the system.

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309 | Section 12. This act shall take effect upon becoming a
310 | law.

HB183

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 183

Special Organized Crime Investigators

SPONSOR(S): Pafford

TIED BILLS:

IDEN./SIM. BILLS: SB 502

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	12 Y, 0 N	Krol	Cunningham
2)	Criminal & Civil Justice Appropriations Committee		Darity <i>[Signature]</i>	Davis <i>[Signature]</i>
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Currently s. 27.251, F.S., authorizes the state attorney of each judicial circuit to employ any municipal or county police officer or sheriff s deputy on a full-time basis as an investigator for the state attorney's office with full powers of arrest throughout the judicial circuit provided such investigator serves on a special task force to investigate matters involving "organized crime."

HB 183 expands s. 27.251, F.S., to allow for broader use of special investigator appointments by specifying that organized crime includes gang violence and that the special investigators may investigate other criminal activities where the use of an interagency task force may be beneficial.

This bill does not appear to have a fiscal impact on state attorneys. Considering the bill expands current use of investigator appointments, it would have a fiscal impact on local law enforcement agencies or counties or municipalities to the extent that they consent to appoint any additional officers or deputies as a special investigator with the state attorney's office.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 27.251, F.S., authorizes the state attorney of each judicial circuit to employ any municipal or county police officer or sheriff's deputy on a full-time basis as an investigator for the state attorney's office with full powers of arrest throughout the judicial circuit provided such investigator serves on a special task force to investigate matters involving organized crime. Consent from the county, sheriff or municipality must be given in order for the municipal or county police officer or sheriff's deputy to become an investigator for the state attorney. The salary of such municipal or county police officer or sheriff's deputy is paid by the city, county, or sheriff by which the investigator is principally employed.

The arrest powers granted by this section are only in the furtherance of the conduct of the business of the special task force to which the municipal or county police officer or sheriff's deputy is assigned by the employing state attorney.

Section 27.255, F.S., provides that a special investigator appointed by a state attorney pursuant to the provisions of s. 27.251, F.S., is a certified Florida law enforcement officer under the direction and control of the employing state attorney and is authorized to make arrests and serve arrest and search warrants and other documents as specified in the section.

Staff of the State Attorney for the 15th Judicial Circuit has described how special investigators are used and the benefits accruing from such use:

Currently, State Attorneys use state attorney investigators to assist and supplement other investigative law enforcement efforts in developing and prosecuting cases in their respective jurisdictions. State attorneys are authorized and employ their own staff of law enforcement officers. See Fl. Stat. 27.255. However, state attorneys also use specially sworn investigators pursuant to Fl. Stat. 27.251 in any matter involving "organized crime." Of course, "organized crime" is a broad term which can include a wide range of criminal activities which involve a degree of organization and structure. The special investigators perform duties in furtherance of the task force under the direction of the state attorney, but remain paid by their respective local agencies. The advantage of this practice is that the State Attorney can guide and coordinate important investigative matters while not having to bear the financial burden of employing the investigators full-time on a permanent basis. The arrangement works well and is fiscally responsible.¹

¹ E-mail from Nicky Solimene, State Attorney's Office, 15th Judicial Circuit, to House staff, dated December 2, 2009.

Proposed changes

HB 183 amends s. 27.251, F.S., to allow for broader use of special investigator appointments by specifying that organized crime includes gang violence and that the special investigators may investigate other criminal activities where the use of an interagency task force may be beneficial.

B. SECTION DIRECTORY:

Section 1. Amends s. 27.251, F.S.; relating to special organized crime investigators.

Section 2. Provides for an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

E. This bill does not appear to have a fiscal impact on state attorneys. Considering the bill expands current use of investigator appointments, it would have a fiscal impact on local law enforcement agencies or counties or municipalities to the extent that they consent to appoint any additional officers or deputies as a special investigator with the state attorney's office.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The term "or other criminal activity the detection of which might benefit from an interagency task force" on lines 18 and 19 of the bill may be unclear.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 183 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Criminal & Civil Justice
 2 Appropriations Committee
 3 Representative(s) Pafford offered the following:
 4

Amendment (with title amendment)

Remove lines 11-20 and insert:

7 27.251 Special ~~organized-crime~~ investigators.—The state
 8 attorney of each judicial circuit is authorized to employ any
 9 municipal or county police officer or sheriff's deputy ~~on a~~
 10 ~~full-time basis~~ as an investigator for the state attorney's
 11 office with full powers of arrest throughout the judicial
 12 circuit provided such investigator serves on a special task
 13 force to investigate matters involving ~~organized-crime~~ criminal
 14 activity the detection of which might benefit from a special
 15 task force and provided further that the salary of such
 16 municipal or

Amendment No. 1

20
21
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24

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

Remove lines 2- 4 and insert:

An act relating to special investigators; amending s. 27.251,
F.S.; specifying matters that may be investigated by special
investigators;

1 A bill to be entitled
 2 An act relating to special organized crime investigators;
 3 amending s. 27.251, F.S.; specifying matters that may be
 4 investigated by special organized crime investigators;
 5 providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Section 27.251, Florida Statutes, is amended to
 10 read:

11 27.251 Special organized crime investigators.--The state
 12 attorney of each judicial circuit is authorized to employ any
 13 municipal or county police officer or sheriff's deputy on a
 14 full-time basis as an investigator for the state attorney's
 15 office with full powers of arrest throughout the judicial
 16 circuit provided such investigator serves on a special task
 17 force to investigate matters involving organized crime,
 18 including gang violence, or other criminal activity the
 19 detection of which might benefit from an interagency task force
 20 and, provided further, that the salary of such municipal or
 21 county police officer or sheriff's deputy shall be paid by the
 22 city, county, or sheriff by which the investigator is
 23 principally employed, and with the consent of the county,
 24 sheriff, or municipality. The arrest powers granted in this
 25 section may ~~herein shall~~ be exercised only in the furtherance of
 26 the conduct of the business of the special task force to which
 27 such municipal or county police officer or sheriff's deputy is
 28 assigned by the ~~said~~ state attorney.

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29

Section 2. This act shall take effect July 1, 2010.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 261 Parole Interview Dates for Certain Inmates
SPONSOR(S): Evers and others
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	12 Y, 0 N	Krol	Cunningham
2)	Criminal & Civil Justice Appropriations Committee		McAuliffe	Davis <i>G.D.M.</i>
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

This bill extends the period between parole interview dates from five to seven years for inmates convicted of murder, attempted murder, sexual battery, or attempted sexual battery, or for inmates serving a 25-year minimum mandatory sentence. This would result in the Parole Commission being required to meet less frequently to consider whether to grant parole to such inmates.

The fiscal impact of this bill has an indeterminate cost savings to state and local expenditures.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Parole is a discretionary prison release mechanism administered by the Florida Parole Commission (commission) through chs. 947, 948, and 949, F.S. An inmate who is granted parole is allowed to serve the remainder of his or her prison sentence outside of confinement according to terms and conditions established by the commission. Parolees are supervised by Correctional Probation Officers of the Department of Corrections (department). Parole is not available for most crimes that were committed on or after October 1, 1983.¹ There is no parole eligibility for any crime committed on or after October 1, 1995. The commission reports that currently there are 5,826 Florida inmates still eligible for parole consideration with about 450 under supervision in the community.²

The parole process begins with the setting of a presumptive parole release date (PPRD) by the commission after a hearing examiner reviews the inmate's file and makes an initial recommendation. The PPRD is the tentative date set for the offender to come before the commission to determine if they will be released on parole or continue to serve their prison sentence. An inmate may request one review of the initial PPRD within 60 days after notification. Otherwise, the PPRD is not reviewed until a hearing examiner interviews the inmate. The date of the initial interview depends upon the length and type of the parole-eligible sentence. For example, an inmate with a minimum mandatory sentence of seven to fifteen years is not eligible to have an initial interview sooner than 12 months prior to expiration of the minimum mandatory portion of the sentence. Therefore, under this example the inmate's initial interview would be after six years of the sentence has been served.

Under certain circumstances, the PPRD may be more than two years after the date of the initial interview. In such cases a hearing examiner must interview the inmate to review the PPRD within two years after the initial interview and every two years thereafter. The statute also provides for less frequent reviews for inmates whose PPRD is more than five years from the date of the initial interview or if an inmate was convicted of murder, attempted murder, sexual battery, or attempted sexual battery,

¹ The exceptions are for capital felony murders committed prior to October 1, 1994, and capital felony sexual battery prior to October 1, 1995.

² Parole Commission 2010 Analysis of HB 261.

or is serving a 25-year minimum mandatory sentence under s. 775.082, F.S.³ In such cases, the interview and subsequent interview may be conducted every five years if the commission makes a written finding that it is not reasonable to expect that parole will be granted. For any inmate within seven years of their tentative release date, the commission may establish an interview date prior to the five year schedule.

These interviews are limited to determining whether or not information has been gathered which might affect the PPRD.⁴ The department is responsible for bringing to the attention of the commission any information that may be pertinent for review, such as current progress reports, psychological reports, and disciplinary reports.⁵ In consultation with the department, the commission has developed guidelines defining unsatisfactory institutional record and has defined what constitutes a satisfactory release plan and verification of the plan prior to release.⁶

After the interview is conducted the hearing examiner sends their report and recommendation to the commission. The inmate's case is then added to the docket of the next available parole hearing date where the commission will hear testimony and make a final decision regarding the possibility of parole. Inmates are not permitted to attend parole hearings. At parole hearings victims and their families, inmates' families, attorneys, law enforcement, and other interested parties may address the commission. The commission's Victims' Services unit provides advance notice to victims of upcoming parole proceedings. If a victim or the victim's family is unable to attend a hearing Victim Services can address the commission on their behalf.

If parole is granted, the commission determines the terms and conditions of parole. Statutorily, conditions of parole are not specific, except for provisions that require:

- The offender to submit to random substance abuse testing, if the offender's conviction was for a controlled substance violation.
- The offender to not knowingly associate with other criminal gang members or associates, if the offender's conviction was for a crime that involved criminal gang activity.
- The offender to pay debt due and owing to the state under s. 960.17, F.S., or attorney's fees and costs due and owing to the state under s. 938.29, F.S.⁷
- The offender to pay victim restitution.⁸
- The offender to apply for services from the Agency for Persons with Disabilities, if the offender has been diagnosed as mentally retarded.⁹

Proposed Changes

HB 261 would extend the period between parole interview dates from five to seven years for inmates convicted of murder, attempted murder, sexual battery, or attempted sexual battery, or for inmates serving a 25-year minimum mandatory sentence. This would result in the commission being required to meet less frequently to consider whether to grant parole to such inmates.

B. SECTION DIRECTORY:

³ Section 947.16(4)(g), F.S.

⁴ Section 947.174(1)(c), F.S.

⁵ Section 947.174(3), F.S.

⁶ Section 947.174(5), F.S.

⁷ Section 947.18, F.S.

⁸ Section 947.181, F.S.

⁹ Section 947.185, F.S.

Section 1. Amends s. 947.16, F.S.; an act relating to eligibility for parole; initial parole interviews; powers and duties of commission.

Section 2. Amends s. 947.174, F.S.; an act relating to subsequent interviews.

Section 3. Amends s. 947.1745, F.S.; an act relating to establishment of effective parole release date.

Section 4. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There is an indeterminate savings associated with this bill because the Parole Commission has not provided sufficient information in its fiscal analysis specifically related to the number of these interviews, the number of personnel conducting these interviews, or the percentage of one's time spent on this activity.

However, moving these interview dates from 5 to 7 years, equates to a workload reduction of 29% for this activity. As an example, if the Commission's 55 examiners spent all of their time conducting these specific interviews, a 29% reduction equates to 15 FTE and \$809,055. Understanding the proportion of an examiner's time spent on this activity would provide a more accurate picture of the savings associated with this reduction in workload.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Judges, prosecutors, and law enforcement officers will not have to expend resources to attend or provide input for the parole hearings as often.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Victims and their families or other interested parties would not be required to travel as frequently to testify at parole hearings.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to

raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On June 1, 1997, the Legislature enacted ch. 97-289, Laws of Florida, which changed the frequency of subsequent parole interviews for certain prisoners from every two years to every five years. According to the Third District Court of Appeal, the ex post facto clause was not violated by the retroactive application of this law as it applied to a limited number of inmates and was narrowly constructed.¹⁰

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

¹⁰ Tuff v. State, 732 So.2d 461 (3rd DCA 1999).

1 A bill to be entitled
 2 An act relating to parole interview dates for certain
 3 inmates; amending ss. 947.16, 947.174, and 947.1745, F.S.;
 4 extending from 5 to 7 years the period between parole
 5 interview dates for inmates convicted of violating
 6 specified provisions or serving a mandatory minimum
 7 sentence under a specified provision; providing an
 8 effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraph (g) of subsection (4) of section
 13 947.16, Florida Statutes, is amended to read:

14 947.16 Eligibility for parole; initial parole interviews;
 15 powers and duties of commission.--

16 (4) A person who has become eligible for an initial parole
 17 interview and who may, according to the objective parole
 18 guidelines of the commission, be granted parole shall be placed
 19 on parole in accordance with the provisions of this law; except
 20 that, in any case of a person convicted of murder, robbery,
 21 burglary of a dwelling or burglary of a structure or conveyance
 22 in which a human being is present, aggravated assault,
 23 aggravated battery, kidnapping, sexual battery or attempted
 24 sexual battery, incest or attempted incest, an unnatural and
 25 lascivious act or an attempted unnatural and lascivious act,
 26 lewd and lascivious behavior, assault or aggravated assault when
 27 a sexual act is completed or attempted, battery or aggravated
 28 battery when a sexual act is completed or attempted, arson, or

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29 any felony involving the use of a firearm or other deadly weapon
 30 or the use of intentional violence, at the time of sentencing
 31 the judge may enter an order retaining jurisdiction over the
 32 offender for review of a commission release order. This
 33 jurisdiction of the trial court judge is limited to the first
 34 one-third of the maximum sentence imposed. When any person is
 35 convicted of two or more felonies and concurrent sentences are
 36 imposed, then the jurisdiction of the trial court judge as
 37 provided herein applies to the first one-third of the maximum
 38 sentence imposed for the highest felony of which the person was
 39 convicted. When any person is convicted of two or more felonies
 40 and consecutive sentences are imposed, then the jurisdiction of
 41 the trial court judge as provided herein applies to one-third of
 42 the total consecutive sentences imposed.

43 (g) The decision of the original sentencing judge or, in
 44 her or his absence, the chief judge of the circuit to vacate any
 45 parole release order as provided in this section is not
 46 appealable. Each inmate whose parole release order has been
 47 vacated by the court shall be reinterviewed within 2 years after
 48 the date of receipt of the vacated release order and every 2
 49 years thereafter, or earlier by order of the court retaining
 50 jurisdiction. However, each inmate whose parole release order
 51 has been vacated by the court and who has been:

- 52 1. Convicted of murder or attempted murder;
- 53 2. Convicted of sexual battery or attempted sexual
 54 battery; or
- 55 3. Sentenced to a 25-year minimum mandatory sentence
 56 previously provided in s. 775.082,

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57
58 shall be reinterviewed once within 7 ~~5~~ years after the date of
59 receipt of the vacated release order and once every 7 ~~5~~ years
60 thereafter, if the commission finds that it is not reasonable to
61 expect that parole would be granted during the following years
62 and states the bases for the finding in writing. For any inmate
63 who is within 7 years of his or her tentative release date, the
64 commission may establish a reinterview date prior to the 7-year
65 ~~5-year~~ schedule.

66 Section 2. Paragraph (b) of subsection (1) of section
67 947.174, Florida Statutes, is amended to read:

68 947.174 Subsequent interviews.--

69 (1)

70 (b) For any inmate convicted of murder, attempted murder,
71 sexual battery, attempted sexual battery, or who has been
72 sentenced to a 25-year minimum mandatory sentence previously
73 provided in s. 775.082, and whose presumptive parole release
74 date is more than 7 ~~5~~ years after the date of the initial
75 interview, a hearing examiner shall schedule an interview for
76 review of the presumptive parole release date. Such interview
77 shall take place once within 7 ~~5~~ years after the initial
78 interview and once every 7 ~~5~~ years thereafter if the commission
79 finds that it is not reasonable to expect that parole will be
80 granted at a hearing during the following years and states the
81 bases for the finding in writing. For any inmate who is within 7
82 years of his or her tentative release date, the commission may
83 establish an interview date prior to the 7-year ~~5-year~~ schedule.

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84 Section 3. Subsection (6) of section 947.1745, Florida
85 Statutes, is amended to read:

86 947.1745 Establishment of effective parole release
87 date.--If the inmate's institutional conduct has been
88 satisfactory, the presumptive parole release date shall become
89 the effective parole release date as follows:

90 (6) Within 90 days before the effective parole release
91 date interview, the commission shall send written notice to the
92 sentencing judge of any inmate who has been scheduled for an
93 effective parole release date interview. If the sentencing judge
94 is no longer serving, the notice must be sent to the chief judge
95 of the circuit in which the offender was sentenced. The chief
96 judge may designate any circuit judge within the circuit to act
97 in the place of the sentencing judge. Within 30 days after
98 receipt of the commission's notice, the sentencing judge, or the
99 designee, shall send to the commission notice of objection to
100 parole release, if the judge objects to such release. If there
101 is objection by the judge, such objection may constitute good
102 cause in exceptional circumstances as described in s. 947.173,
103 and the commission may schedule a subsequent review within 2
104 years, extending the presumptive parole release date beyond that
105 time. However, for an inmate who has been:

106 (a) Convicted of murder or attempted murder;

107 (b) Convicted of sexual battery or attempted sexual
108 battery; or

109 (c) Sentenced to a 25-year minimum mandatory sentence
110 previously provided in s. 775.082,

111

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112 | the commission may schedule a subsequent review under this
113 | subsection once every 7 ~~5~~ years, extending the presumptive
114 | parole release date beyond that time if the commission finds
115 | that it is not reasonable to expect that parole would be granted
116 | at a review during the following years and states the bases for
117 | the finding in writing. For any inmate who is within 7 years of
118 | his or her release date, the commission may schedule a
119 | subsequent review prior to the 7-year ~~5-year~~ schedule. With any
120 | subsequent review the same procedure outlined above will be
121 | followed. If the judge remains silent with respect to parole
122 | release, the commission may authorize an effective parole
123 | release date. This subsection applies if the commission desires
124 | to consider the establishment of an effective release date
125 | without delivery of the effective parole release date interview.
126 | Notice of the effective release date must be sent to the
127 | sentencing judge, and either the judge's response to the notice
128 | must be received or the time period allowed for such response
129 | must elapse before the commission may authorize an effective
130 | release date.

131 | Section 4. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 369

Murder

SPONSOR(S): Snyder

TIED BILLS:

IDEN./SIM. BILLS: SB 808

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	11 Y, 0 N	Padgett	Cunningham
2)	Criminal & Civil Justice Appropriations Committee		McAuliffe	Davis <i>EDMS</i>
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Section 782.04(1)(a)3, F.S., provides the unlawful killing of a human being which resulted from the unlawful distribution of certain controlled substances, including cocaine and opium or any synthetic derivative of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user, is murder in the first degree and constitutes a capital felony.

In a recent court opinion, Florida's 4th District Court of Appeal upheld the dismissal of first degree murder charges against a defendant who sold methadone to a victim who later overdosed on the drug, holding that methadone is not a drug enumerated in statute. As a result of the court's decision, a death resulting from the unlawful distribution of methadone must be prosecuted as manslaughter under s. 782.07, F.S., which is a second degree felony.

The bill amends s. 782.04, F.S., to add methadone to the list of opium and opium derivatives in the first degree murder statute. This allows the state to prosecute a death resulting from the unlawful distribution of methadone as a capital felony in the same manner as a death resulting from opium and opium derivatives.

The Criminal Justice Impact Conference met February 23, 2010, and determined the bill will have an insignificant impact on state prison beds.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 782.04(1)(a)3, F.S., provides the unlawful killing of a human being which resulted from the unlawful distribution of any substance controlled under s. 893.03(1)¹, F.S., cocaine as described in s. 893.03(2)(a)4, F.S., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user is murder in the first degree and constitutes a capital felony², punishable as provided in s. 775.082, F.S.

In State v. McCartney, 1 So.3d. 326 (Fla. 4th DCA, 2009) the defendant was charged with first degree murder as the result of a death caused by an overdose of methadone which was sold to the victim by the defendant. The trial court granted a motion to dismiss the case because methadone is not a drug enumerated in Schedule I under the above statute. The state appealed, arguing that methadone does fall within the statute because it is a synthetic of opium. The Fourth District Court of Appeal held that methadone is not a synthetic of opium, but a substance that affects the body in the same manner as opium.³

As a result of the court's decision, a death resulting from the unlawful distribution of methadone must be prosecuted as manslaughter under s. 782.07, F.S., which is a second degree felony⁴.

Proposed Changes

The bill amends s. 782.04, F.S., to add methadone to the list of opium and opium derivatives in the first degree murder statute. This allows the state to prosecute a death resulting from the unlawful distribution of methadone as a capital felony in the same manner as a death resulting from opium and opium derivatives.

B. SECTION DIRECTORY:

¹ Section 893.03(1), F.S., contains a list of Schedule I illegal substances. Schedule I substances have a high potential for abuse and have no currently accepted medical use in treatment and use under medical supervision does not meet accepted safety standards.

² A capital felony is punishable by death, or life imprisonment without the possibility of parole. Section 775.082(1), F.S.

³ The court also noted that methadone is specifically listed as a Schedule II substance under s. 893.03(2)(b)14, F.S.

⁴ A second degree felony is punishable by up to 15 years imprisonment and a maximum \$10,000 fine. Sections 775.082, 775.083, 775.084, F.S.

Section 1: Amends s. 782.04, F.S., relating to murder.

Section 2: Reenacts s. 775.0823, F.S., relating to violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.

Section 3: Reenacts s. 782.065, F.S., relating to murder; law enforcement officer.

Section 4: Reenacts s. 921.0022, F.S., relating to criminal punishment code; offense severity ranking chart.

Section 5: Reenacts s. 947.146, F.S., relating to control release authority.

Section 6: Provides effective date of October 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference met February 23, 2010, and determined the bill will have an insignificant impact on prison beds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to murder; amending s. 782.04, F.S.; providing that murder in the first degree includes the unlawful killing of a human being which resulted from the unlawful distribution of methadone by a person aged 18 or older when such drug is proven to be the proximate cause of the death of the user; providing penalties; reenacting ss. 775.0823(1) and (2), 782.065(1), 921.0022(3)(i), and 947.146(3)(i), F.S., relating to violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges, murder of law enforcement officer, the Criminal Punishment Code offense severity ranking chart, and the Control Release Authority, respectively, to incorporate the amendment to s. 782.04, F.S., in references thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section 782.04, Florida Statutes, is amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

a. Trafficking offense prohibited by s. 893.135(1),

- 29 b. Arson,
- 30 c. Sexual battery,
- 31 d. Robbery,
- 32 e. Burglary,
- 33 f. Kidnapping,
- 34 g. Escape,
- 35 h. Aggravated child abuse,
- 36 i. Aggravated abuse of an elderly person or disabled
- 37 adult,
- 38 j. Aircraft piracy,
- 39 k. Unlawful throwing, placing, or discharging of a
- 40 destructive device or bomb,
- 41 l. Carjacking,
- 42 m. Home-invasion robbery,
- 43 n. Aggravated stalking,
- 44 o. Murder of another human being,
- 45 p. Resisting an officer with violence to his or her
- 46 person,
- 47 q. Felony that is an act of terrorism or is in furtherance
- 48 of an act of terrorism; or
- 49 3. Which resulted from the unlawful distribution of any
- 50 substance controlled under s. 893.03(1), cocaine as described in
- 51 s. 893.03(2)(a)4., ~~or~~ opium or any synthetic or natural salt,
- 52 compound, derivative, or preparation of opium, or methadone by a
- 53 person 18 years of age or older, when such drug is proven to be
- 54 the proximate cause of the death of the user,
- 55

56 is murder in the first degree and constitutes a capital felony,
 57 punishable as provided in s. 775.082.

58 Section 2. For the purpose of incorporating the amendment
 59 made by this act to section 782.04, Florida Statutes, in
 60 references thereto, subsections (1) and (2) of section 775.0823,
 61 Florida Statutes, are reenacted to read:

62 775.0823 Violent offenses committed against law
 63 enforcement officers, correctional officers, state attorneys,
 64 assistant state attorneys, justices, or judges.—The Legislature
 65 does hereby provide for an increase and certainty of penalty for
 66 any person convicted of a violent offense against any law
 67 enforcement or correctional officer, as defined in s. 943.10(1),
 68 (2), (3), (6), (7), (8), or (9); against any state attorney
 69 elected pursuant to s. 27.01 or assistant state attorney
 70 appointed under s. 27.181; or against any justice or judge of a
 71 court described in Art. V of the State Constitution, which
 72 offense arises out of or in the scope of the officer's duty as a
 73 law enforcement or correctional officer, the state attorney's or
 74 assistant state attorney's duty as a prosecutor or investigator,
 75 or the justice's or judge's duty as a judicial officer, as
 76 follows:

77 (1) For murder in the first degree as described in s.
 78 782.04(1), if the death sentence is not imposed, a sentence of
 79 imprisonment for life without eligibility for release.

80 (2) For attempted murder in the first degree as described
 81 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,
 82 or s. 775.084.

83

84 Notwithstanding the provisions of s. 948.01, with respect to any
 85 person who is found to have violated this section, adjudication
 86 of guilt or imposition of sentence shall not be suspended,
 87 deferred, or withheld.

88 Section 3. For the purpose of incorporating the amendment
 89 made by this act to section 782.04, Florida Statutes, in a
 90 reference thereto, subsection (1) of section 782.065, Florida
 91 Statutes, is reenacted to read:

92 782.065 Murder; law enforcement officer.—Notwithstanding
 93 ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a
 94 defendant shall be sentenced to life imprisonment without
 95 eligibility for release upon findings by the trier of fact that,
 96 beyond a reasonable doubt:

97 (1) The defendant committed murder in the first degree in
 98 violation of s. 782.04(1) and a death sentence was not imposed;
 99 murder in the second or third degree in violation of s.
 100 782.04(2), (3), or (4); attempted murder in the first or second
 101 degree in violation of s. 782.04(1)(a)1. or (2); or attempted
 102 felony murder in violation of s. 782.051; and

103 Section 4. For the purpose of incorporating the amendment
 104 made by this act to section 782.04, Florida Statutes, in a
 105 reference thereto, paragraph (i) of subsection (3) of section
 106 921.0022, Florida Statutes, is reenacted to read:

107 921.0022 Criminal Punishment Code; offense severity
 108 ranking chart.—

109 (3) OFFENSE SEVERITY RANKING CHART

110 (i) LEVEL 9

111

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	Florida Statute	Felony Degree	Description
112	316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
113	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
114	409.920(2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
115	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
116	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
117	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
118	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding

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			\$100,000 by financial institution.
119			
	775.0844	1st	Aggravated white collar crime.
120			
	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
121			
	782.04(3)	1st, PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
122			
	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
123			
	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
124			
	787.01(1)(a)1.	1st, PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
125			
	787.01(1)(a)2.	1st, PBL	Kidnapping with intent to commit or facilitate commission of any felony.
126			
	787.01(1)(a)4.	1st, PBL	Kidnapping with intent to interfere

			with performance of any governmental or political function.
127	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
128	790.161	1st	Attempted capital destructive device offense.
129	790.166(2)	1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
130	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
131	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
132	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
133			

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134	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
135	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
136	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
137	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
138	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
139	812.135(2)(b)	1st	Home-invasion robbery with weapon.
140	817.568(7)	2nd,PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.

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141	827.03(2)	1st	Aggravated child abuse.
142	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
143	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
144	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
145	893.135	1st	Attempted capital trafficking offense.
146	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
147	893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
148	893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.

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149	893.135(1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
150	893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
151	893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
152	893.135(1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
153	893.135(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
154	893.135(1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
155	896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
156	896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

157 Section 5. For the purpose of incorporating the amendment
 158 made by this act to section 782.04, Florida Statutes, in a
 159 reference thereto, paragraph (i) of subsection (3) of section
 160 947.146, Florida Statutes, is reenacted to read:

161 947.146 Control Release Authority.—

162 (3) Within 120 days prior to the date the state
 163 correctional system is projected pursuant to s. 216.136 to
 164 exceed 99 percent of total capacity, the authority shall
 165 determine eligibility for and establish a control release date
 166 for an appropriate number of parole ineligible inmates committed
 167 to the department and incarcerated within the state who have
 168 been determined by the authority to be eligible for
 169 discretionary early release pursuant to this section. In
 170 establishing control release dates, it is the intent of the
 171 Legislature that the authority prioritize consideration of
 172 eligible inmates closest to their tentative release date. The
 173 authority shall rely upon commitment data on the offender
 174 information system maintained by the department to initially
 175 identify inmates who are to be reviewed for control release
 176 consideration. The authority may use a method of objective risk
 177 assessment in determining if an eligible inmate should be
 178 released. Such assessment shall be a part of the department's
 179 management information system. However, the authority shall have
 180 sole responsibility for determining control release eligibility,
 181 establishing a control release date, and effectuating the
 182 release of a sufficient number of inmates to maintain the inmate
 183 population between 99 percent and 100 percent of total capacity.

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184 Inmates who are ineligible for control release are inmates who
 185 are parole eligible or inmates who:

186 (i) Are convicted, or have been previously convicted, of
 187 committing or attempting to commit murder in the first, second,
 188 or third degree under s. 782.04(1), (2), (3), or (4), or have
 189 ever been convicted of any degree of murder or attempted murder
 190 in another jurisdiction;

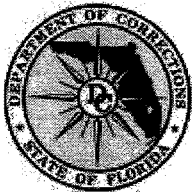
191

192 In making control release eligibility determinations under this
 193 subsection, the authority may rely on any document leading to or
 194 generated during the course of the criminal proceedings,
 195 including, but not limited to, any presentence or postsentence
 196 investigation or any information contained in arrest reports
 197 relating to circumstances of the offense.

198 Section 6. This act shall take effect October 1, 2010.

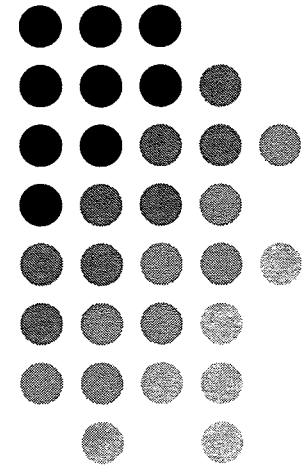
Reality House

A Community Drug Treatment Program for Inmates



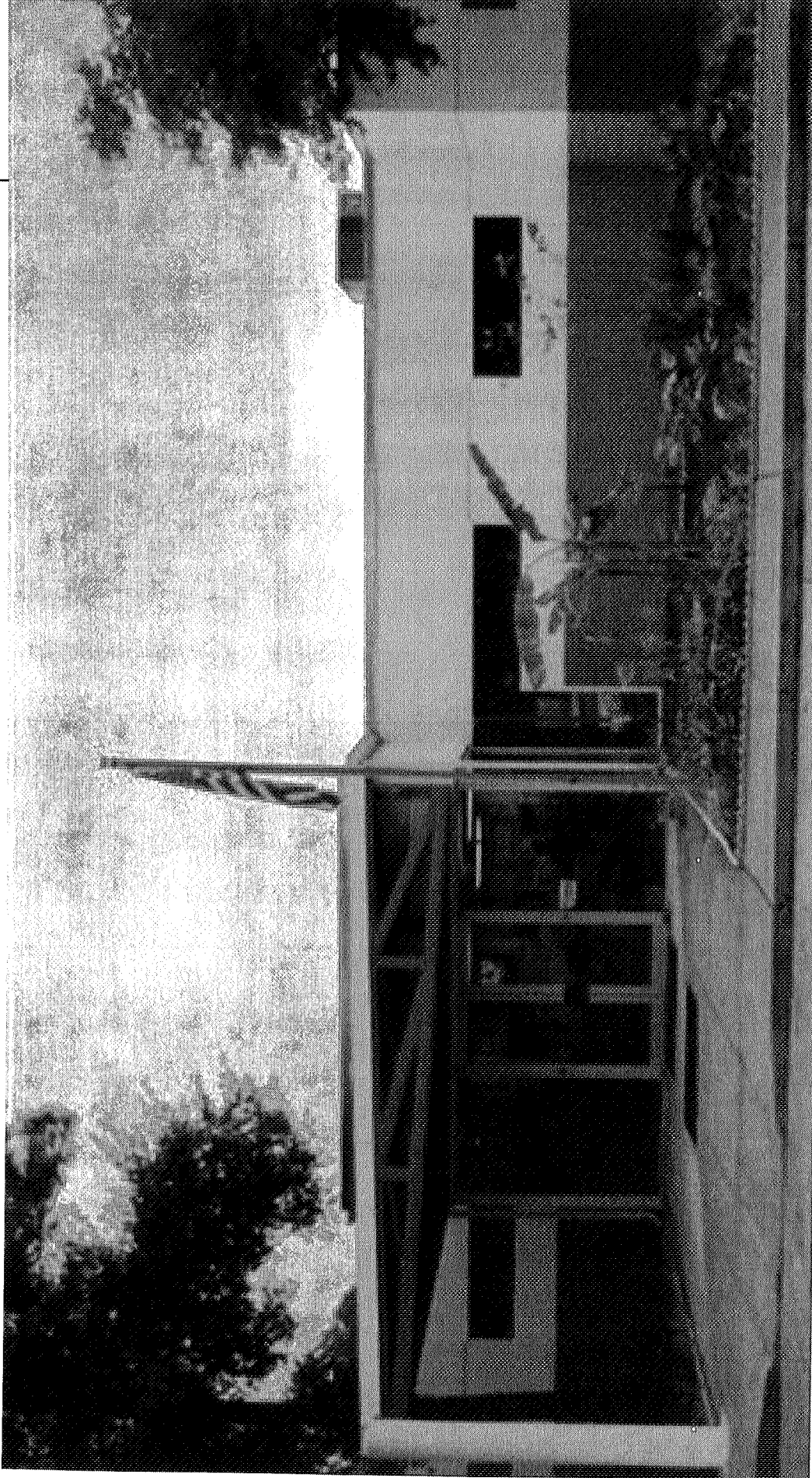
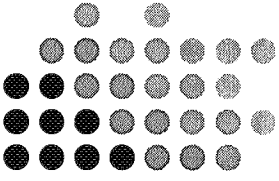
Florida Department of
Corrections

STEWART-MARCHMAN-ACT
BEHAVIORAL HEALTHCARE

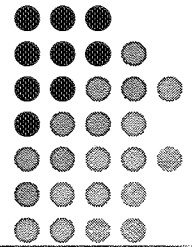


Reality House – Unique in Design and Mission

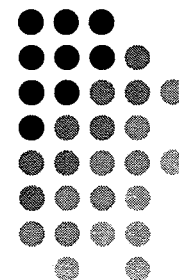
Offering security, treatment, transition



85 Bed Correctional Drug Treatment Program, 28 Bed Work Release Program



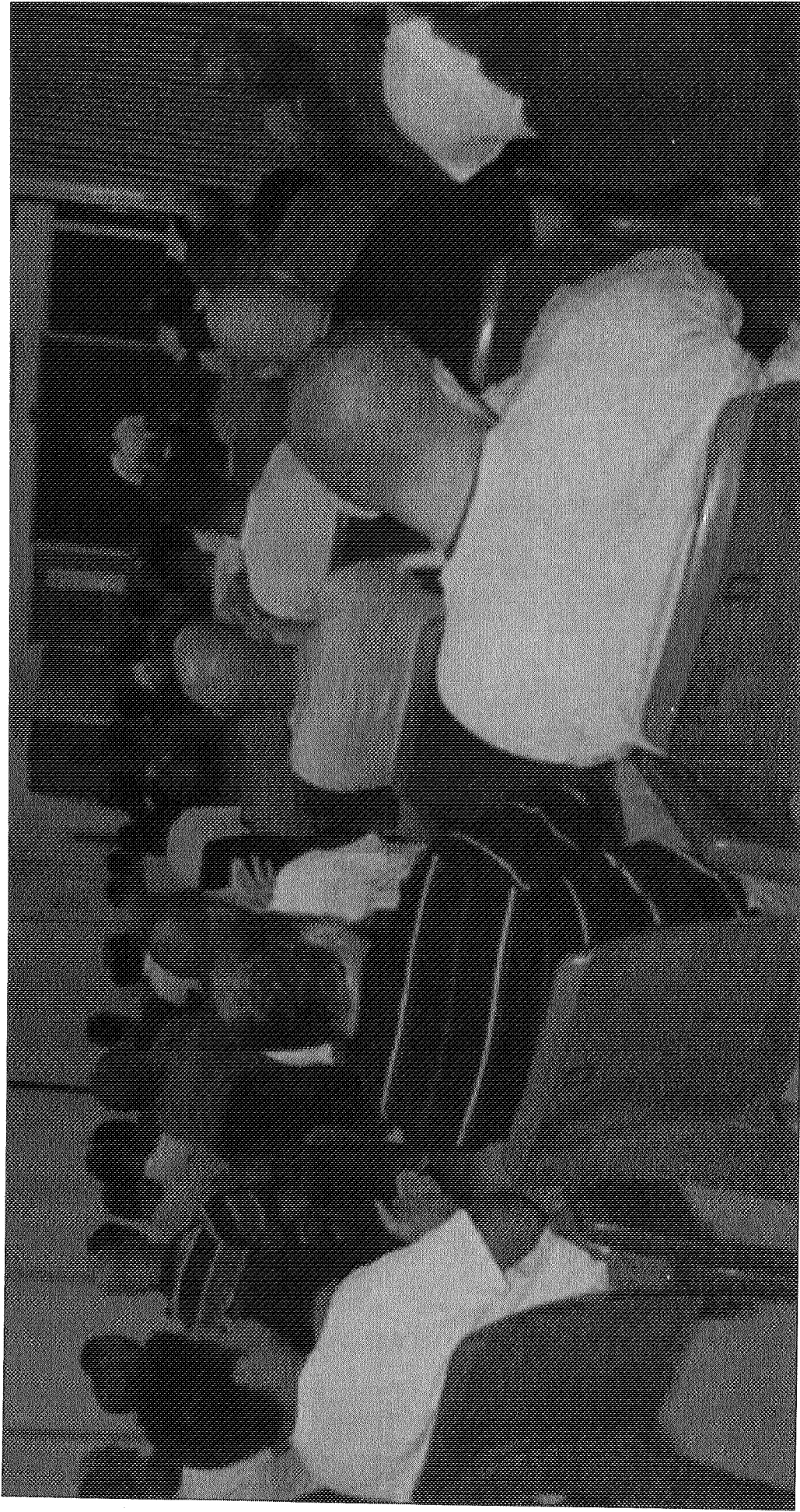
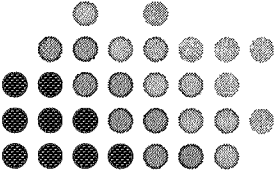
Inmates included in
Tomoka Correctional Institution's bed count



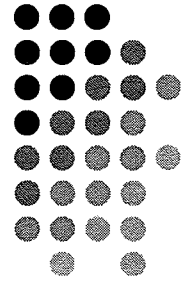
Eligibility for Reality House

- Determined by DOC
- Within 13 months of release
- One or more of the following
 - Drug related conviction
 - Positive drug test while in custody
 - No prior DOC drug treatment
- Work release eligible
 - No escapes or attempts
 - No recent disciplinary reviews
 - Close review of any violent offenses

Morning session brings together
all four pods in the house

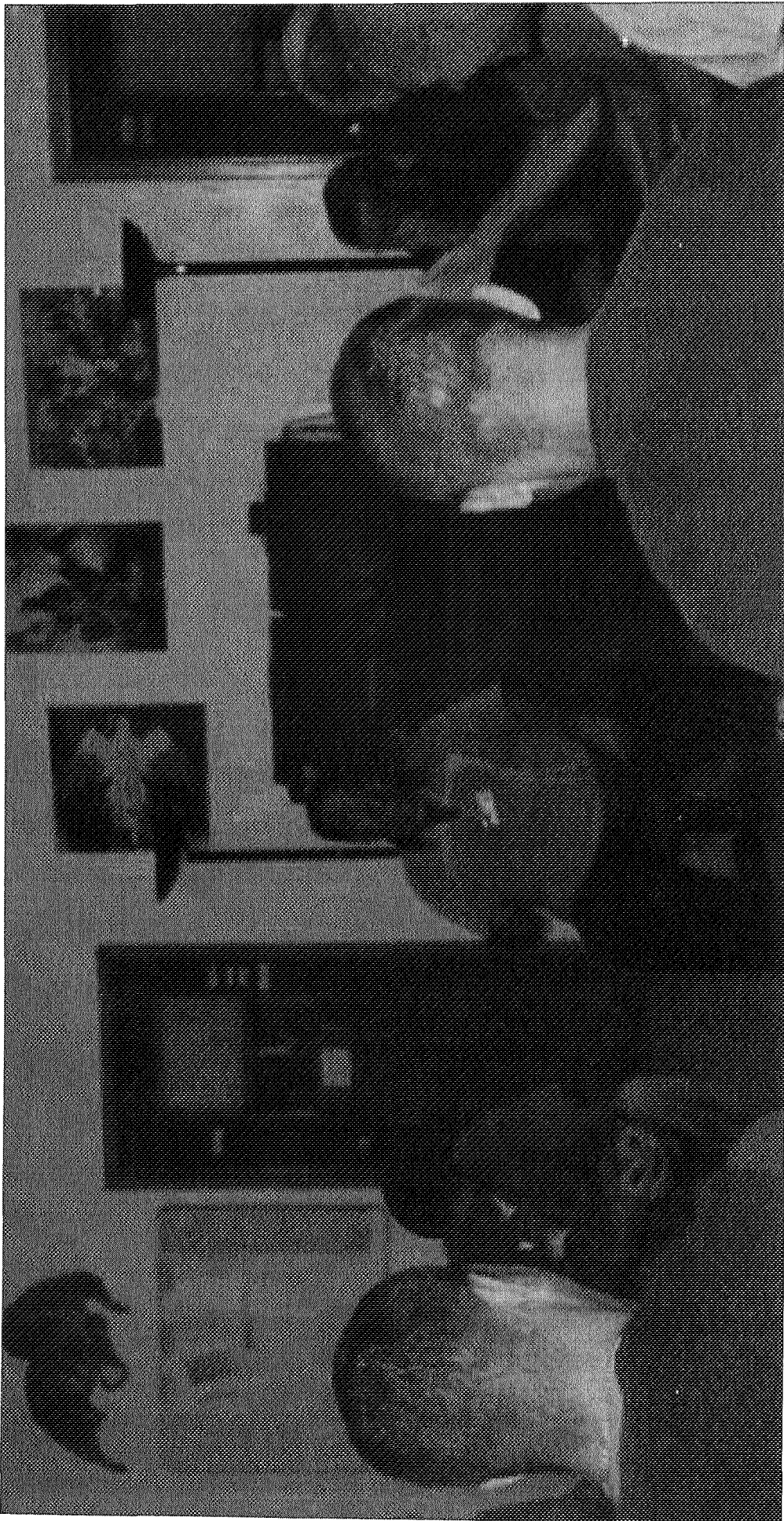
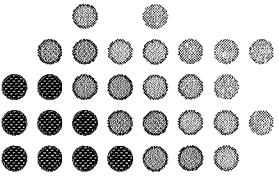


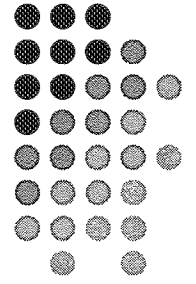
Education & GED Services



- Less than 30% have Diploma or GED
- Volusia Literacy Council provides more than 120 tutoring hours per month
- Daytona State College provides Adult Basic Education classes onsite

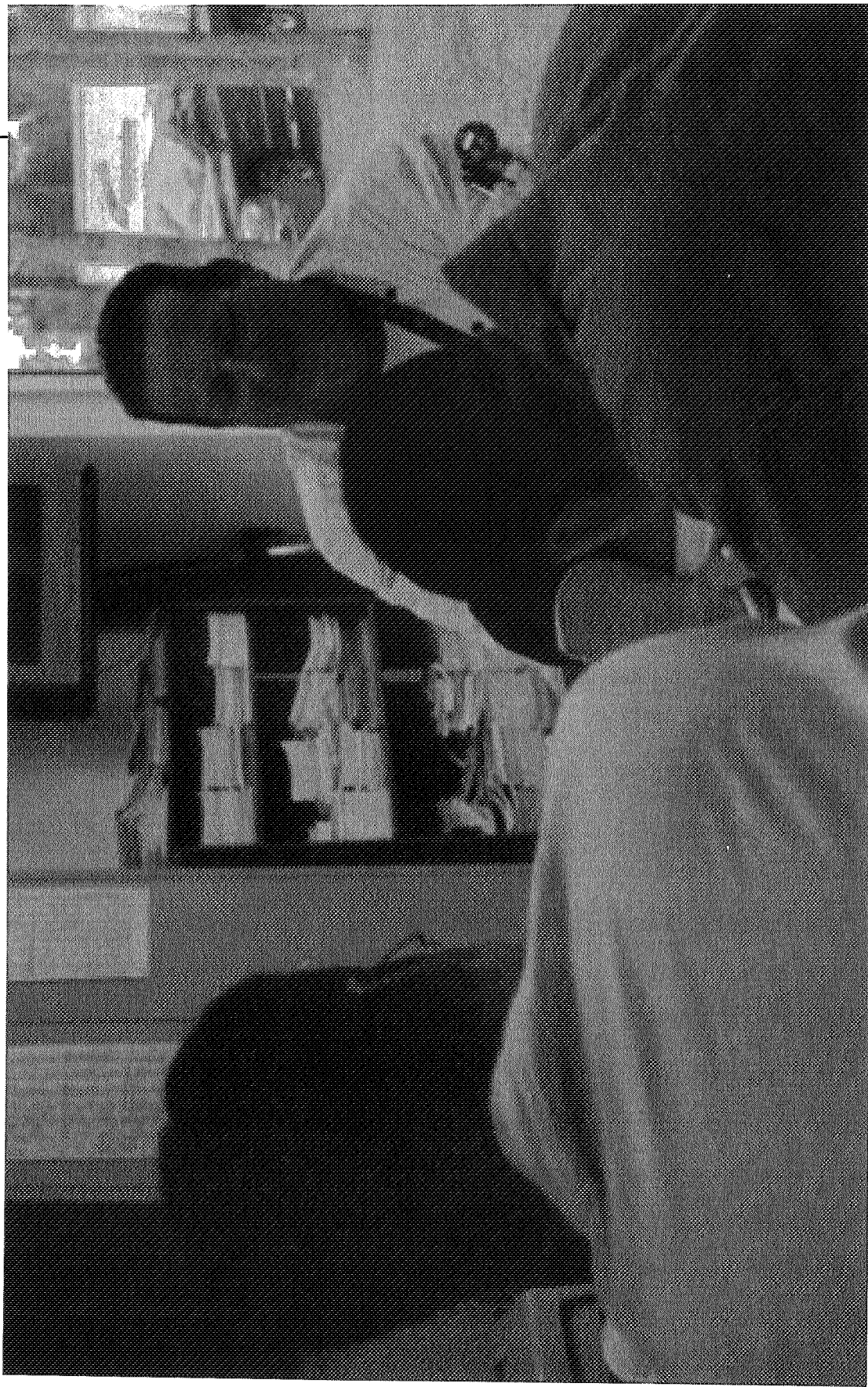
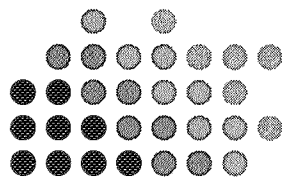
Group and Individual drug
treatment, AA/NA support
occurs daily in each pod



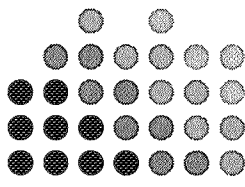


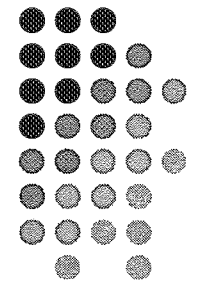
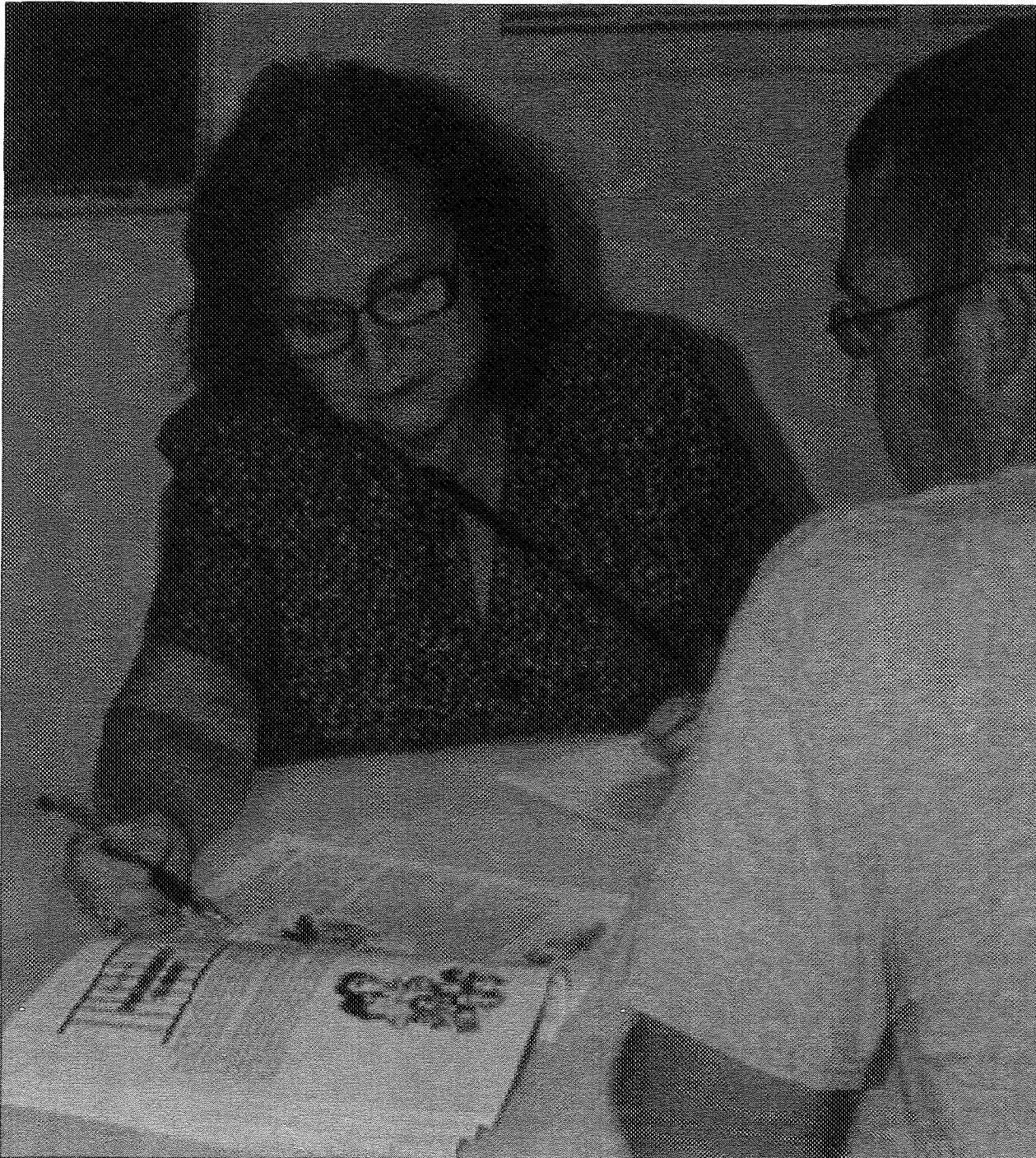
A culinary
arts training
program
prepares
meals for
Reality
House and
neighboring
residential
programs

Culinary arts includes both hands
on and classroom instruction

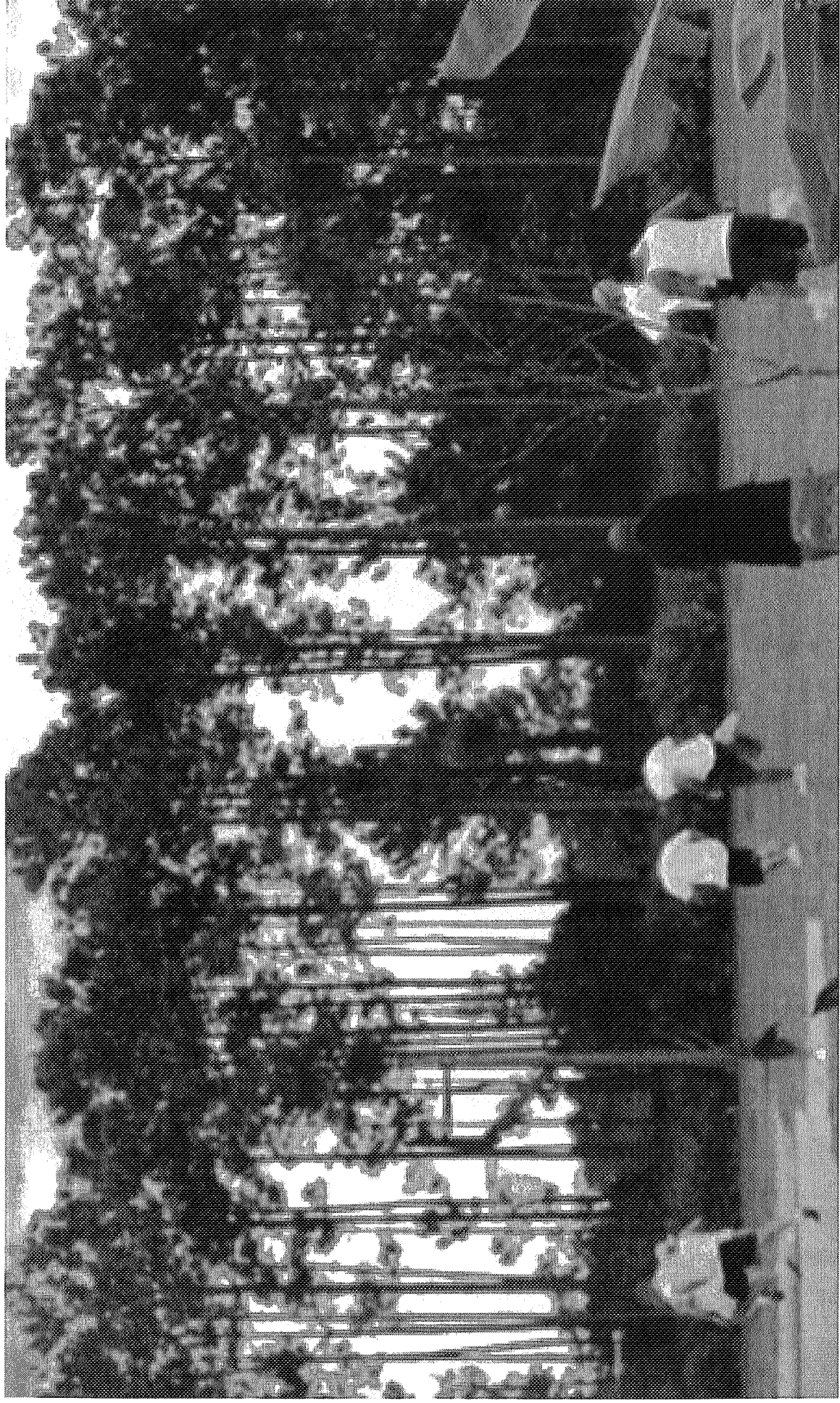


Inmates leave with a food prep certification
that provides them a hiring “leg up”

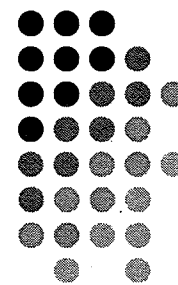




Moral
Reconciliation
Therapy, an
evidence
based
practice, is
employed
as part of
our core
CBT
curriculum

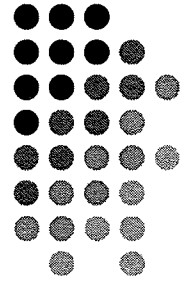


**Corrections and accountability without walls – Reality
House includes a focus on health and wellness**



Transition Services

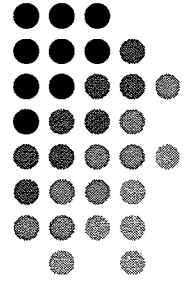
- Work Release
 - 28 beds
 - 90% employment rate averaging \$8.18/hour
- Housing
 - Those without permanent housing linked to transitional housing when released
- Job Skills
 - Culinary arts – 4 certificate courses
- Community support



Results

- 2 year recidivism rates are 11 percent
- 1 overnight “escape” in past year
- No inmate homeless at end of sentence, most placed in permanent housing

Reality House Benefits



- Public safety/corrections directed
- Drug treatment
- Educational and vocational development
- Transition/community engagement - work release, job skills, job placement
- Less expensive than a prison bed
- Increased recovery outcomes
- Reduced recidivism outcomes

Correctional Substance Abuse Programming

Number of Research Studies that Validate Treatment Works for Offenders – 27
(Reduces crime, increases public safety, reduces recidivism, maintains order)

Percentage of DOC Budget Spent on Drug Treatment – Less Than 2%

Number of Inmates – 101,175

Number of Inmates in Need of Substance Abuse Treatment – 65,764

Number Treated FY 2008-2009 – 4,900

Number Released FY 2008-2009, Needing Treatment Who Did Not Get It – 22,722 (84%)

Normal Inmate Recidivism – 32.8% within 3 Years, 44% within 5 years

2 Years after Release, 81% of Program Completers Did Not Return to Prison for a New Offense

If All Offenders that Needed Treatment Received It,
769 Fewer Inmates Would Return to Prison at Savings of \$35.9 Million
(DOC Figures: 769 fewer return within 36 months X \$55.54 per diem X
2.3 year average sentence avoided = \$35.9 Million)

Number of Probationers – 155,837 (12/31/09)

Number in Need of Substance Abuse Services – 88,827 (57%)

Number Treated FY 2008-2009, in Community Beds – 4,255

36 Months Post Treatment – Completers Return to Prison 56% Less than Those Who Needed
Treatment and Did Not Get It

36 months Post Treatment – 93% of Completers Had No Recommitment to Prison

Cost of Community Treatment Bed to serve One Offender @ \$10,290 vs. Cost of Prison @
\$36,960 (avg. 22 months)

Number of Community Beds: 1986 Beds in 2006 vs. 1073 Beds in 2009 (**45% Reduction**)

Available Beds if \$2 Million NR is not Restored – 956 (**51% Reduction**)

Corrections Offender Network



DC Number: L66753
Name: BOXER, SUSAN F
Race: WHITE
Sex: FEMALE
Hair Color: BLACK
Eye Color: BROWN
Height: 5'06"
Weight: 136 lbs.
Birth Date: 10/06/1968
Supervision Begin Date: 10/30/2006
Current Location: FT. LAUDERDALE
Current Status: ACTIVE
Supervision Type: DRUG OFFENDER PROBATION
Scheduled Termination Date: 04/29/2009

Offense Date	Offense	Sentence Date	County	Case No.	Community Supervision Length
07/01/2006	COCAINE - POSSESSION	10/30/2006	BROWARD	0611323	2Y 0M 0D



Reunified
 with all of
 my children
 at the Susan
 B Anthony
 Christmas
 Party
 December
 2007

Susan's Story

Prison Bed vs. Community Drug Treatment Bed Cost Comparison

PRISON BED

**5 year sentence
(1825 days x 85% = 1551 days)**

1551 days x \$74.50 = \$115,550

+

**Foster Care
\$10,000/year x 3.7 years = \$37,000**

vs.

COMMUNITY DRUG TREATMENT BED

210 days x \$49/day = \$10,290

+

Daughter out of Foster Care

+

Reunited with Other 3 Children

+

**Full time Employed
(Taxes Paid)**

+

AA Degree, on the way to BA

+

Community Service

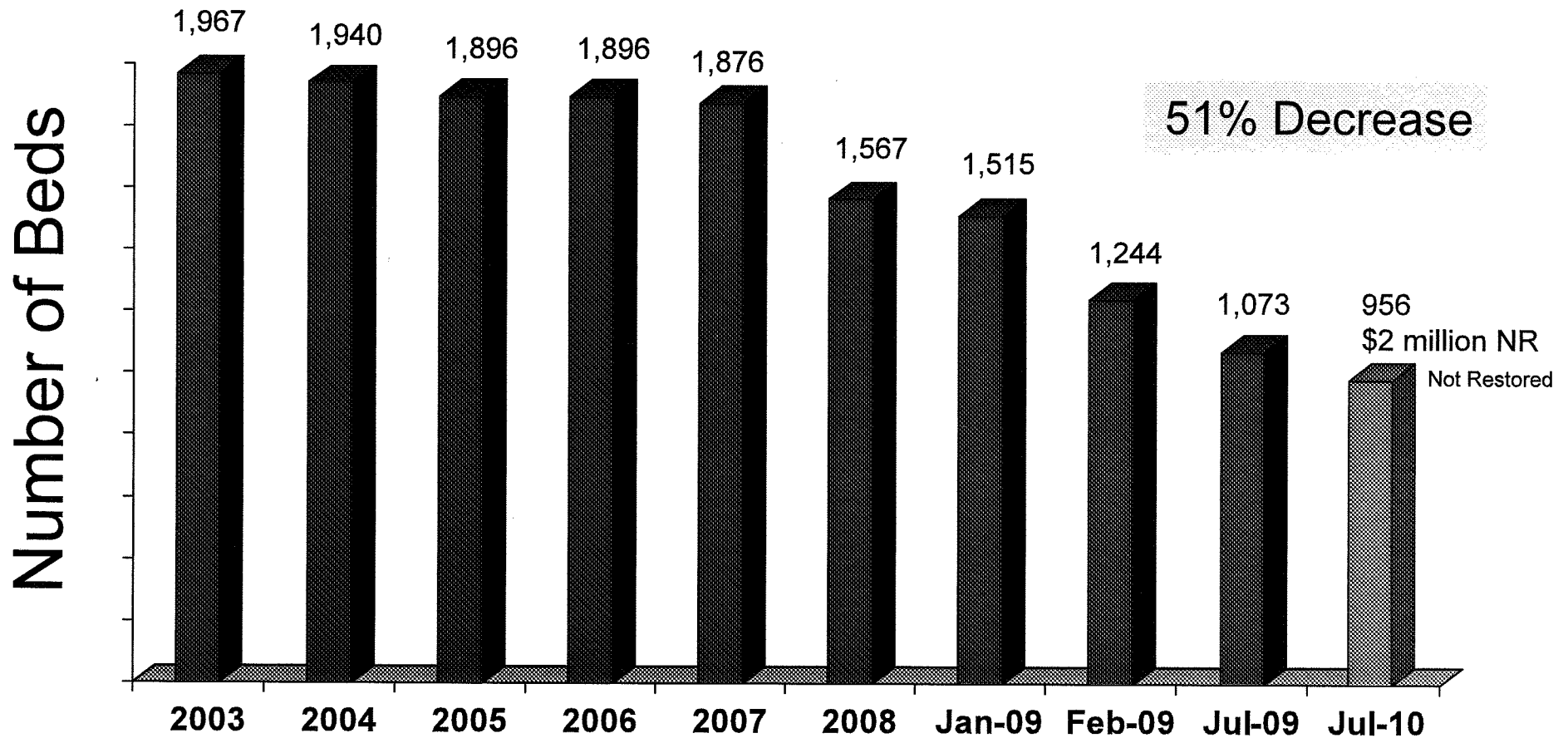
+

Rights Restored

TOTAL = \$152,550

TOTAL = \$10,290

Department of Corrections Community Substance Abuse Beds



Contractor Name	Contract #	FY 2009-10 Funded Beds	FY 2009-10 Contracted Beds	FY 2009-10 Reduced Beds#
Better Way of Miami, Inc. (Miami)	C2218	41	24	-17
Bridges of America - The Polk Bridge, Inc. (Auburndale)	C2411	85	50	-35
Bridges of America, Inc. - The Orlando Bridge (Orlando)	C2120	120	69	-51
Bridges of America, Inc. - The Sanford Bridge (Orlando)	C2572	40	22	-18
Comprehensive Alcoholism Rehabilitation Prog. (WPB)	C2413	55	32	-23
DACCO, Inc. (Tampa)	C2412	150	87	-63
DACCO, Inc. (line item - Tampa)	C2577	33	33	0
First Step of Sarasota, Inc. (Sarasota)	C2176	10	6	-4
First Step of Sarasota, Inc. (Sarasota)	C2566	50	29	-21
Goodwill Industries-Suncoast, Inc. (St. Petersburg)	C2410	60	35	-25
House of Hope, Inc. (Ft. Lauderdale)	C2414	75	46	-29
Non-Secure Programs, Inc. (Ocala)	C2181	75	31	-44
Non-Secure Programs, Inc. (Panama City)	C2234	75	45	-30
Non-Secure Programs, Inc. (Pensacola)	C2284	60	45	-15
Non-Secure Programs, Inc. (Tallahassee)	C2235	70	45	-25
Operation PAR, Inc. (Largo)	C2178	166	96	-70
Phoenix Houses of Florida, Inc. (Citra)	C2133	214	123	-91
Spectrum Programs, Inc. (Miami & Pompano Beach)	C2229	91	61	-30
Spectrum Programs, Inc. (Miami)	C2419	40	14	-26
Susan B. Anthony Center, Inc. (Pembroke Pines)	C2519	23	14	-9
Tampa Crossroads, Inc. (Tampa)	C2285	17	10	-7
The Guidance Clinic of the Middle Keys, Inc. (Marathon)	C2546	12	7	-5
The Salvation Army - Ft. Myers (Ft. Myers)	C2420	47	27	-20
The Salvation Army (Daytona Beach)	C2119	50	29	-21
The Salvation Army (Jacksonville)	C2421	60	35	-25
WestCare GulfCoast - Florida, Inc. (St. Petersburg)	C2494	100	58	-42
TOTAL		1,819	1,073	-746

**Community Beds Available
for Reality House Model Expansion**

<u>Provider</u>	<u>Available Beds</u>	<u>Location</u>
Operation PAR	70 Male	St. Petersburg
Spectrum Programs	25 Male	Miami
Transition House	40 Male	Kissimmee
Bridges of America	48 Female	Orlando
Phoenix Programs	70 Male/Female	Ocala
Non-Secure Programs	70 Male	Ocala
Salvation Army	35 Male	—
Goodwill Industries-Suncoast	35 Male/Female	St. Petersburg
Susan B. Anthony Center	20 Female	Pembroke Pines
Stewart-Marchman-Act	50 Male/Female	Daytona
WestCare-Gulf Coast	<u>70 Male</u>	St. Petersburg

533 TOTAL