

PCB PSDS 09-02

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1                   A bill to be entitled  
2           An act relating to criminal justice; amending s. 940.061,  
3           F.S.; requiring the Department of Corrections to send the  
4           Parole Commission a monthly electronic list containing the  
5           names of inmates released from incarceration and offenders  
6           who have been terminated from supervision and who may be  
7           eligible for restoration of civil rights; repealing s.  
8           944.293, F.S., relating to procedures for initiation of  
9           civil rights restoration; amending s. 944.35, F.S.;  
10          applying provisions prohibiting sexual misconduct to  
11          employees of private correctional facilities; providing  
12          penalties; creating s. 945.604, F.S.; defining the term  
13          "claim" for purposes of the State of Florida Correctional  
14          Medical Authority act; providing for filing and payment of  
15          medical claims for payment or underpayment; providing for  
16          filing and payment of claims for overpayment; providing  
17          for recovery of overpayment of claims; creating s.  
18          945.6041, F.S.; providing definitions; providing limits on  
19          reimbursement for certain inmate medical expenses when  
20          there is no contract between the Department of Corrections  
21          or a private correctional facility and the health care  
22          provider or provider of emergency medical transportation  
23          services; amending s. 947.1405, F.S.; providing that  
24          persons on supervision who are electronically monitored  
25          pay for the monitoring; providing exceptions; providing  
26          for disposition of funds collected; amending s. 948.001,  
27          F.S.; deleting the definition of the term "criminal  
28          quarantine community control"; amending s. 775.0877, F.S.;

29 | revising the penalty for criminal transmission of HIV;  
 30 | conforming provisions to changes made by the act; amending  
 31 | ss. 384.34, 796.08, and 921.187, F.S.; conforming  
 32 | provisions to changes made by the act; amending s. 948.01,  
 33 | F.S.; requiring a court placing a person on community  
 34 | supervision to use the orders of supervision provided by  
 35 | the Department of Corrections; amending s. 948.03, F.S.;  
 36 | providing as a condition of probation, community control,  
 37 | or any other form of court-ordered supervision that an  
 38 | offender live without violating any law; providing that a  
 39 | conviction in a court of law is not necessary for a  
 40 | violation of law to constitute a violation of such a  
 41 | condition; eliminating a requirement that a probation  
 42 | officer consent to possession of a firearm by a  
 43 | probationer with court authorization; requiring that an  
 44 | offender on probation or community control submit to the  
 45 | taking of a digitized photograph; providing for display of  
 46 | such photographs on the department's public website while  
 47 | the offender is on supervision; providing exceptions;  
 48 | amending s. 948.09, F.S.; revising language relating to  
 49 | payments by persons on supervision for the costs of  
 50 | electronic monitoring services; providing exemptions;  
 51 | conforming a cross-reference; amending s. 948.101, F.S.;  
 52 | deleting provisions relating to criminal quarantine  
 53 | community control; amending s. 948.11, F.S.; deleting  
 54 | provisions relating to criminal quarantine community  
 55 | control; deleting the requirement that for offenders being  
 56 | electronically monitored, the Department of Corrections

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57 | develop specified procedures concerning offender's  
58 | noncompliance; deleting a provision allowing the  
59 | Department of Corrections to contract for local law  
60 | enforcement assistance with noncompliant offenders;  
61 | revising language relating to payment for electronic  
62 | monitoring to conform to changes made by the act; amending  
63 | s. 951.23, F.S.; eliminating the requirements for  
64 | collection of certain information from the administrator  
65 | of each county detention facility; correcting a cross-  
66 | reference; amending s. 958.045, F.S.; requiring a report  
67 | to be submitted to the court concerning an offender's  
68 | performance while in youthful offender basic training  
69 | within a specified period prior to the offender's  
70 | scheduled release; providing for specified court actions  
71 | if the offender's performance is satisfactory; amending s.  
72 | 960.292, F.S.; providing for retention of court  
73 | jurisdiction over certain offenders for a specified period  
74 | after release from incarceration or supervision for the  
75 | sole purpose of entering civil restitution orders;  
76 | amending s. 960.293, F.S.; providing that damages due from  
77 | an offender for correctional costs be based upon the  
78 | length of the sentence imposed by the court at the time of  
79 | sentencing; amending s. 960.297, F.S.; providing a time  
80 | period in which civil actions for the costs of  
81 | incarceration may be initiated; providing an effective  
82 | date.

83 |  
84 | Be It Enacted by the Legislature of the State of Florida:

85  
 86 Section 1. Section 940.061, Florida Statutes, is amended  
 87 to read:

88 940.061 Informing persons about executive clemency and  
 89 restoration of civil rights.--The Department of Corrections  
 90 shall inform and educate inmates and offenders on community  
 91 supervision about the restoration of civil rights. The  
 92 Department of Corrections shall send the Parole Commission a  
 93 monthly electronic list containing the names of inmates released  
 94 from incarceration and offenders who have been terminated from  
 95 supervision and who may be eligible for restoration of civil  
 96 rights ~~and assist eligible inmates and offenders on community~~  
 97 ~~supervision with the completion of the application for the~~  
 98 ~~restoration of civil rights.~~

99 Section 2. Section 944.293, Florida Statutes, is repealed.

100 Section 3. Paragraph (b) of subsection (3) of section  
 101 944.35, Florida Statutes, is amended to read:

102 944.35 Authorized use of force; malicious battery and  
 103 sexual misconduct prohibited; reporting required; penalties.--

104 (3)

105 (b)1. As used in this paragraph, the term "sexual  
 106 misconduct" means the oral, anal, or vaginal penetration by, or  
 107 union with, the sexual organ of another or the anal or vaginal  
 108 penetration of another by any other object, but does not include  
 109 an act done for a bona fide medical purpose or an internal  
 110 search conducted in the lawful performance of the employee's  
 111 duty.

112           2. Any employee of the department or any employee of a  
 113 private correctional facility, as defined in s. 944.710, who  
 114 engages in sexual misconduct with an inmate or an offender  
 115 supervised by the department in the community, without  
 116 committing the crime of sexual battery, commits a felony of the  
 117 third degree, punishable as provided in s. 775.082, s. 775.083,  
 118 or s. 775.084.

119           3. The consent of the inmate or offender supervised by the  
 120 department in the community to any act of sexual misconduct may  
 121 not be raised as a defense to a prosecution under this  
 122 paragraph.

123           4. This paragraph does not apply to any employee of the  
 124 department or any employee of a private correctional facility  
 125 who is legally married to an inmate or an offender supervised by  
 126 the department in the community, nor does it apply to any  
 127 employee who has no knowledge, and would have no reason to  
 128 believe, that the person with whom the employee has engaged in  
 129 sexual misconduct is an inmate or an offender under community  
 130 supervision of the department.

131           Section 4. Section 945.604, Florida Statutes, is created  
 132 to read:

133           945.604 Medical claims.--

134           (1) DEFINITION OF "CLAIM."--As used in this section, for a  
 135 noninstitutional health care provider the term "claim" means a  
 136 paper or electronic billing instrument submitted to the  
 137 department that consists of the HCFA 1500 data set, or its  
 138 successor, that has all mandatory entries for a physician  
 139 licensed under chapter 458, chapter 459, chapter 460, chapter

140 461, or chapter 463 or a psychologist licensed under chapter 490  
 141 or any appropriate billing instrument that has all mandatory  
 142 entries for any other noninstitutional health care provider. For  
 143 an institutional health care provider, the term "claim" means a  
 144 paper or electronic billing instrument submitted to the  
 145 department that consists of the UB-92 data set or its successor  
 146 with entries stated as mandatory by the National Uniform Billing  
 147 Committee.

148 (2) SUBMISSION DATE.--Claims for payment or underpayment  
 149 are considered submitted on the date the claim for payment is  
 150 mailed or electronically transferred to the department by the  
 151 health care provider. Claims for overpayment are considered  
 152 submitted on the date the claim for overpayment is mailed or  
 153 electronically transferred to the health care provider by the  
 154 department.

155 (3) CLAIMS FOR PAYMENT OR UNDERPAYMENT.--

156 (a) Claims for payment or underpayment must be submitted  
 157 to the department within 6 months after the following have  
 158 occurred:

159 1. The discharge of the inmate for inpatient services  
 160 rendered to the inmate or the date of service for outpatient  
 161 services rendered to the inmate; and

162 2. The health care provider has been furnished with the  
 163 correct name and address of the department.

164 (b) Claims for payment or underpayment must not duplicate  
 165 a claim previously submitted unless it is determined the  
 166 original claim was not received or is otherwise lost.

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167 (c) The department is not obligated to pay claims for  
168 payment or underpayment that were not submitted in accordance  
169 with paragraph (a).

170 (4) CLAIMS FOR OVERPAYMENT.--

171 (a) If the department determines that it has made an  
172 overpayment to a health care provider for services rendered to  
173 an inmate, it must make a claim for such overpayment to the  
174 provider's designated location. The department shall provide a  
175 written or electronic statement specifying the basis for  
176 overpayment. The department must identify the claim or claims,  
177 or overpayment claim portion thereof, for which a claim for  
178 overpayment is submitted.

179 (b) The department must submit a claim for overpayment to  
180 a health care provider within 30 months after the department's  
181 payment of the claim, except that claims for overpayment may be  
182 submitted beyond that time from providers convicted of fraud  
183 pursuant to s. 817.234.

184 (c) Health care providers are not obligated to pay claims  
185 for overpayment that were not submitted in accordance with  
186 paragraph (b).

187 (d) A health care provider must pay, deny, or contest the  
188 department's claim for overpayment within 40 days after the  
189 receipt of the claim for overpayment.

190 (e) A health care provider that denies or contests the  
191 department's claim for overpayment or any portion of a claim  
192 shall notify the department, in writing, within 40 days after  
193 the provider receives the claim. The notice that the claim for  
194 overpayment is denied or contested must identify the contested

195 portion of the claim and the specific reason for contesting or  
 196 denying the claim and, if contested, must include a request for  
 197 additional information.

198 (f) All contested claims for overpayment must be paid or  
 199 denied within 120 days after receipt of the claim. Failure to  
 200 pay or deny the claim for overpayment within 140 days after  
 201 receipt creates an uncontestable obligation to pay the claim.

202 (g) The department may not reduce payment to the health  
 203 care provider for other services unless the provider agrees to  
 204 the reduction or fails to respond to the department's claim for  
 205 overpayment as required by this subsection.

206 (5) NONWAIVER OF PROVISIONS.--The provisions of this  
 207 section may not be waived, voided, or nullified by contract.

208 Section 5. Section 945.6041, Florida Statutes, is created  
 209 to read:

210 945.6041 Inmate medical services.--

211 (1) As used in this section, the term:

212 (a) "Emergency medical transportation services" includes,  
 213 but is not limited to, services rendered by ambulances,  
 214 emergency medical services vehicles, and air ambulances as those  
 215 terms are defined in s. 401.23.

216 (b) "Health care provider" has the same meaning as  
 217 provided in s. 766.105.

218 (2) (a) If no contract for the provision of inmate medical  
 219 services exists between the department and a health care  
 220 provider or between a private correctional facility, as defined  
 221 in s. 944.701, and a health care provider, compensation for such



222 services may not exceed 110 percent of the Medicare allowable  
 223 rate.

224 (b) Notwithstanding paragraph (a), if no contract for the  
 225 provision of inmate medical services exists between the  
 226 department and a health care provider or between a private  
 227 correctional facility, as defined in s. 944.710, and a health  
 228 care provider that reported to the Agency for Health Care  
 229 Administration, through hospital-audited financial data, a  
 230 negative operating margin for the previous year, compensation  
 231 for such services may not exceed 125 percent of the Medicare  
 232 allowable rate.

233 (3) If no contract for emergency medical transportation  
 234 services exists between the department and an entity that  
 235 provides emergency medical transportation services or between a  
 236 private correctional facility, as defined in s. 944.701, and an  
 237 entity that provides emergency medical transportation services,  
 238 compensation for such services may not exceed 110 percent of the  
 239 Medicare allowable rate.

240 (4) This section is not applicable to charges for medical  
 241 services provided at any hospital operated by the department.

242 Section 6. Paragraph (b) of subsection (7) of section  
 243 947.1405, Florida Statutes, is amended to read:

244 947.1405 Conditional release program.--

245 (7)

246 (b) For a releasee whose crime was committed on or after  
 247 October 1, 1997, in violation of chapter 794, s. 800.04, s.  
 248 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to  
 249 conditional release supervision, in addition to any other

250 provision of this subsection, the commission shall impose the  
 251 following additional conditions of conditional release  
 252 supervision:

253 1. As part of a treatment program, participation in a  
 254 minimum of one annual polygraph examination to obtain  
 255 information necessary for risk management and treatment and to  
 256 reduce the sex offender's denial mechanisms. The polygraph  
 257 examination must be conducted by a polygrapher trained  
 258 specifically in the use of the polygraph for the monitoring of  
 259 sex offenders, where available, and at the expense of the sex  
 260 offender. The results of the polygraph examination shall not be  
 261 used as evidence in a hearing to prove that a violation of  
 262 supervision has occurred.

263 2. Maintenance of a driving log and a prohibition against  
 264 driving a motor vehicle alone without the prior approval of the  
 265 supervising officer.

266 3. A prohibition against obtaining or using a post office  
 267 box without the prior approval of the supervising officer.

268 4. If there was sexual contact, a submission to, at the  
 269 probationer's or community controllee's expense, an HIV test  
 270 with the results to be released to the victim or the victim's  
 271 parent or guardian.

272 5. Electronic monitoring of any form when ordered by the  
 273 commission. Any person being electronically monitored by the  
 274 department as a result of placement on supervision shall be  
 275 required to pay the department for electronic monitoring  
 276 services at a rate that may not exceed the full cost of the  
 277 monitoring service. Funds collected pursuant to this

278 subparagraph shall be deposited in the General Revenue Fund. The  
 279 department may exempt a person from the payment of all or any  
 280 part of the electronic monitoring service if it finds that  
 281 factors exist as provided in s. 948.09(3).

282 Section 7. Subsections (4) through (10) of section  
 283 948.001, Florida Statutes, are renumbered as subsections (3)  
 284 through (9), respectively, and subsection (3) of that section is  
 285 amended to read:

286 948.001 Definitions.--As used in this chapter, the term:

287 ~~(3) "Criminal quarantine community control" means~~  
 288 ~~intensive supervision, by officers with restricted caseloads,~~  
 289 ~~with a condition of 24-hour-per-day electronic monitoring, and a~~  
 290 ~~condition of confinement to a designated residence during~~  
 291 ~~designated hours.~~

292 Section 8. Section 775.0877, Florida Statutes, is amended  
 293 to read:

294 775.0877 Criminal transmission of HIV; procedures;  
 295 penalties.--

296 (1) In any case in which a person has been convicted of or  
 297 has pled nolo contendere or guilty to, regardless of whether  
 298 adjudication is withheld, any of the following offenses, or the  
 299 attempt thereof, which offense or attempted offense involves the  
 300 transmission of body fluids from one person to another:

- 301 (a) Section 794.011, relating to sexual battery,
- 302 (b) Section 826.04, relating to incest,
- 303 (c) Section 800.04(1), (2), and (3), relating to lewd,  
 304 lascivious, or indecent assault or act upon any person less than  
 305 16 years of age,

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306 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),  
 307 relating to assault,  
 308 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),  
 309 relating to aggravated assault,  
 310 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),  
 311 relating to battery,  
 312 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),  
 313 relating to aggravated battery,  
 314 (h) Section 827.03(1), relating to child abuse,  
 315 (i) Section 827.03(2), relating to aggravated child abuse,  
 316 (j) Section 825.102(1), relating to abuse of an elderly  
 317 person or disabled adult,  
 318 (k) Section 825.102(2), relating to aggravated abuse of an  
 319 elderly person or disabled adult,  
 320 (l) Section 827.071, relating to sexual performance by  
 321 person less than 18 years of age,  
 322 (m) Sections 796.03, 796.07, and 796.08, relating to  
 323 prostitution, or  
 324 (n) Section 381.0041(11)(b), relating to donation of  
 325 blood, plasma, organs, skin, or other human tissue,  
 326  
 327 the court shall order the offender to undergo HIV testing, to be  
 328 performed under the direction of the Department of Health in  
 329 accordance with s. 381.004, unless the offender has undergone  
 330 HIV testing voluntarily or pursuant to procedures established in  
 331 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or  
 332 rule providing for HIV testing of criminal offenders or inmates,  
 333 subsequent to her or his arrest for an offense enumerated in

334 paragraphs (a)-(n) for which she or he was convicted or to which  
 335 she or he pled nolo contendere or guilty. The results of an HIV  
 336 test performed on an offender pursuant to this subsection are  
 337 not admissible in any criminal proceeding arising out of the  
 338 alleged offense.

339 (2) The results of the HIV test must be disclosed under  
 340 the direction of the Department of Health, to the offender who  
 341 has been convicted of or pled nolo contendere or guilty to an  
 342 offense specified in subsection (1), the public health agency of  
 343 the county in which the conviction occurred and, if different,  
 344 the county of residence of the offender, and, upon request  
 345 pursuant to s. 960.003, to the victim or the victim's legal  
 346 guardian, or the parent or legal guardian of the victim if the  
 347 victim is a minor.

348 (3) An offender who has undergone HIV testing pursuant to  
 349 subsection (1), and to whom positive test results have been  
 350 disclosed pursuant to subsection (2), who commits a second or  
 351 subsequent offense enumerated in paragraphs (1)(a)-(n), commits  
 352 criminal transmission of HIV, a felony of the third degree,  
 353 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
 354 ~~subsection (7)~~. A person may be convicted and sentenced  
 355 separately for a violation of this subsection and for the  
 356 underlying crime enumerated in paragraphs (1)(a)-(n).

357 (4) An offender may challenge the positive results of an  
 358 HIV test performed pursuant to this section and may introduce  
 359 results of a backup test performed at her or his own expense.

360 (5) Nothing in this section requires that an HIV infection  
 361 have occurred in order for an offender to have committed  
 362 criminal transmission of HIV.

363 (6) For an alleged violation of any offense enumerated in  
 364 paragraphs (1)(a)-(n) for which the consent of the victim may be  
 365 raised as a defense in a criminal prosecution, it is an  
 366 affirmative defense to a charge of violating this section that  
 367 the person exposed knew that the offender was infected with HIV,  
 368 knew that the action being taken could result in transmission of  
 369 the HIV infection, and consented to the action voluntarily with  
 370 that knowledge.

371 ~~(7) In addition to any other penalty provided by law for~~  
 372 ~~an offense enumerated in paragraphs (1)(a)-(n), the court may~~  
 373 ~~require an offender convicted of criminal transmission of HIV to~~  
 374 ~~serve a term of criminal quarantine community control, as~~  
 375 ~~described in s. 948.001.~~

376 Section 9. Subsection (5) of section 384.34, Florida  
 377 Statutes, is amended to read:

378 384.34 Penalties.--

379 (5) Any person who violates the provisions of s. 384.24(2)  
 380 commits a felony of the third degree, punishable as provided in  
 381 s. 775.082, s. 775.083, or s. 775.084, ~~and 775.0877(7)~~. Any  
 382 person who commits multiple violations of the provisions of s.  
 383 384.24(2) commits a felony of the first degree, punishable as  
 384 provided in s. 775.082, s. 775.083, or s. 775.084, ~~and~~  
 385 ~~775.0877(7)~~.

386 Section 10. Subsection (5) of section 796.08, Florida  
 387 Statutes, is amended to read:

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388           796.08 Screening for HIV and sexually transmissible  
 389 diseases; providing penalties.--  
 390           (5) A person who:  
 391           (a) Commits or offers to commit prostitution; or  
 392           (b) Procures another for prostitution by engaging in  
 393 sexual activity in a manner likely to transmit the human  
 394 immunodeficiency virus,  
 395  
 396 and who, prior to the commission of such crime, had tested  
 397 positive for human immunodeficiency virus and knew or had been  
 398 informed that he or she had tested positive for human  
 399 immunodeficiency virus and could possibly communicate such  
 400 disease to another person through sexual activity commits  
 401 criminal transmission of HIV, a felony of the third degree,  
 402 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
 403 ~~or s. 775.0877(7)~~. A person may be convicted and sentenced  
 404 separately for a violation of this subsection and for the  
 405 underlying crime of prostitution or procurement of prostitution.  
 406           Section 11. Subsections (2) and (3) of section 921.187,  
 407 Florida Statutes, are amended to read:  
 408           921.187 Disposition and sentencing; alternatives;  
 409 restitution.--  
 410           ~~(2) In addition to any other penalty provided by law for~~  
 411 ~~an offense enumerated in s. 775.0877(1)(a)-(n), if the offender~~  
 412 ~~is convicted of criminal transmission of HIV pursuant to s.~~  
 413 ~~775.0877, the court may sentence the offender to criminal~~  
 414 ~~quarantine community control as described in s. 948.001.~~

415            (2)~~(3)~~ The court shall require an offender to make  
 416 restitution under s. 775.089, unless the court finds clear and  
 417 compelling reasons not to order such restitution. If the court  
 418 does not order restitution, or orders restitution of only a  
 419 portion of the damages, as provided in s. 775.089, the court  
 420 shall state the reasons on the record in detail. An order  
 421 requiring an offender to make restitution to a victim under s.  
 422 775.089 does not remove or diminish the requirement that the  
 423 court order payment to the Crimes Compensation Trust Fund under  
 424 chapter 960.

425            Section 12. Subsection (1) of section 948.01, Florida  
 426 Statutes, is amended to read:

427            948.01 When court may place defendant on probation or into  
 428 community control.--

429            (1) (a) Any court of the state having original jurisdiction  
 430 of criminal actions may at a time to be determined by the court,  
 431 either with or without an adjudication of the guilt of the  
 432 defendant, hear and determine the question of the probation of a  
 433 defendant in a criminal case, except for an offense punishable  
 434 by death, who has been found guilty by the verdict of a jury,  
 435 has entered a plea of guilty or a plea of nolo contendere, or  
 436 has been found guilty by the court trying the case without a  
 437 jury. If the court places the defendant on probation or into  
 438 community control for a felony, the department shall provide  
 439 immediate supervision by an officer employed in compliance with  
 440 the minimum qualifications for officers as provided in s.  
 441 943.13. In no circumstances shall a private entity provide  
 442 probationary or supervision services to felony or misdemeanor



443 offenders sentenced or placed on probation or other supervision  
 444 by the circuit court.

445 (b) The court shall use the orders of supervision provided  
 446 by the Department of Corrections for all persons placed on  
 447 community supervision.

448 Section 13. Subsection (1) of section 948.03, Florida  
 449 Statutes, is amended to read:

450 948.03 Terms and conditions of probation.--

451 (1) The court shall determine the terms and conditions of  
 452 probation. Conditions specified in this section do not require  
 453 oral pronouncement at the time of sentencing and may be  
 454 considered standard conditions of probation. These conditions  
 455 may include among them the following, that the probationer or  
 456 offender in community control shall:

457 (a) Report to the probation and parole supervisors as  
 458 directed.

459 (b) Permit such supervisors to visit him or her at his or  
 460 her home or elsewhere.

461 (c) Work faithfully at suitable employment insofar as may  
 462 be possible.

463 (d) Remain within a specified place.

464 (e) Live without violating any law. A conviction in a  
 465 court of law shall not be necessary for such a violation of law  
 466 to constitute a violation of probation, community control, or  
 467 any other form of court-ordered supervision.

468 (f) ~~(e)~~ Make reparation or restitution to the aggrieved  
 469 party for the damage or loss caused by his or her offense in an  
 470 amount to be determined by the court. The court shall make such

471 reparation or restitution a condition of probation, unless it  
 472 determines that clear and compelling reasons exist to the  
 473 contrary. If the court does not order restitution, or orders  
 474 restitution of only a portion of the damages, as provided in s.  
 475 775.089, it shall state on the record in detail the reasons  
 476 therefor.

477 (g)~~(f)~~ Effective July 1, 1994, and applicable for offenses  
 478 committed on or after that date, make payment of the debt due  
 479 and owing to a county or municipal detention facility under s.  
 480 951.032 for medical care, treatment, hospitalization, or  
 481 transportation received by the felony probationer while in that  
 482 detention facility. The court, in determining whether to order  
 483 such repayment and the amount of such repayment, shall consider  
 484 the amount of the debt, whether there was any fault of the  
 485 institution for the medical expenses incurred, the financial  
 486 resources of the felony probationer, the present and potential  
 487 future financial needs and earning ability of the probationer,  
 488 and dependents, and other appropriate factors.

489 (h)~~(g)~~ Support his or her legal dependents to the best of  
 490 his or her ability.

491 (i)~~(h)~~ Make payment of the debt due and owing to the state  
 492 under s. 960.17, subject to modification based on change of  
 493 circumstances.

494 (j)~~(i)~~ Pay any application fee assessed under s.  
 495 27.52(1)(b) and attorney's fees and costs assessed under s.  
 496 938.29, subject to modification based on change of  
 497 circumstances.

498        (k)~~(j)~~ Not associate with persons engaged in criminal  
 499 activities.

500        (l)~~(k)~~ 1. Submit to random testing as directed by the  
 501 correctional probation officer or the professional staff of the  
 502 treatment center where he or she is receiving treatment to  
 503 determine the presence or use of alcohol or controlled  
 504 substances.

505        2. If the offense was a controlled substance violation and  
 506 the period of probation immediately follows a period of  
 507 incarceration in the state correction system, the conditions  
 508 shall include a requirement that the offender submit to random  
 509 substance abuse testing intermittently throughout the term of  
 510 supervision, upon the direction of the correctional probation  
 511 officer as defined in s. 943.10(3).

512        (m)~~(l)~~ Be prohibited from possessing, carrying, or owning  
 513 any firearm unless authorized by the court ~~and consented to by~~  
 514 ~~the probation officer.~~

515        (n)~~(m)~~ Be prohibited from using intoxicants to excess or  
 516 possessing any drugs or narcotics unless prescribed by a  
 517 physician. The probationer or community controllee shall not  
 518 knowingly visit places where intoxicants, drugs, or other  
 519 dangerous substances are unlawfully sold, dispensed, or used.

520        (o)~~(n)~~ Submit to the drawing of blood or other biological  
 521 specimens as prescribed in ss. 943.325 and 948.014, and  
 522 reimburse the appropriate agency for the costs of drawing and  
 523 transmitting the blood or other biological specimens to the  
 524 Department of Law Enforcement.

525       (p) Submit to the taking of a digitized photograph by the  
 526 department as a part of the offender's records. This photograph  
 527 may be displayed on the department's public website while the  
 528 offender is on a form of court-ordered supervision, with the  
 529 exception of offenders on pretrial intervention supervision, or  
 530 who would otherwise be exempt from public records due to  
 531 provisions in s. 119.07.

532       Section 14. Subsections (2) and (7) of section 948.09,  
 533 Florida Statutes, are amended to read:

534       948.09 Payment for cost of supervision and  
 535 rehabilitation.--

536       (2) Any person being electronically monitored by the  
 537 department as a result of placement on supervision ~~community~~  
 538 ~~control~~ shall be required to pay the department for electronic  
 539 monitoring services at a rate as a surcharge an amount that may  
 540 not exceed the full cost of the monitoring service in addition  
 541 to the cost of supervision fee as directed by the sentencing  
 542 court. Funds collected pursuant to this subsection ~~The surcharge~~  
 543 shall be deposited in the General Revenue Fund. The department  
 544 may exempt a person from the payment of all or any part of the  
 545 electronic monitoring service if it finds that factors exist as  
 546 provided in subsection (3).

547       (7) The department shall establish a payment plan for all  
 548 costs ordered by the courts for collection by the department and  
 549 a priority order for payments, except that victim restitution  
 550 payments authorized under s. 948.03(1) (f) ~~(e)~~ take precedence  
 551 over all other court-ordered payments. The department is not

552 required to disburse cumulative amounts of less than \$10 to  
 553 individual payees established on this payment plan.

554 Section 15. Section 948.101, Florida Statutes, is amended  
 555 to read:

556 948.101 Terms and conditions of community control ~~and~~  
 557 ~~criminal quarantine community control.~~--

558 (1) The court shall determine the terms and conditions of  
 559 community control. Conditions specified in this subsection do  
 560 not require oral pronouncement at the time of sentencing and may  
 561 be considered standard conditions of community control.

562 ~~(a)~~ The court shall require intensive supervision and  
 563 surveillance for an offender placed into community control,  
 564 which may include but is not limited to:

565 (a)1. Specified contact with the parole and probation  
 566 officer.

567 (b)2. Confinement to an agreed-upon residence during hours  
 568 away from employment and public service activities.

569 (c)3. Mandatory public service.

570 (d)4. Supervision by the Department of Corrections by  
 571 means of an electronic monitoring device or system.

572 (e)5. The standard conditions of probation set forth in s.  
 573 948.03 or s. 948.30.

574 ~~(b) For an offender placed on criminal quarantine~~  
 575 ~~community control, the court shall require:~~

576 ~~1. Electronic monitoring 24 hours per day.~~

577 ~~2. Confinement to a designated residence during designated~~  
 578 ~~hours.~~

579           (2) The enumeration of specific kinds of terms and  
 580 conditions does not prevent the court from adding thereto any  
 581 other terms or conditions that the court considers proper.  
 582 However, the sentencing court may only impose a condition of  
 583 supervision allowing an offender convicted of s. 794.011, s.  
 584 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 to reside in  
 585 another state if the order stipulates that it is contingent upon  
 586 the approval of the receiving state interstate compact  
 587 authority. The court may rescind or modify at any time the terms  
 588 and conditions theretofore imposed by it upon the offender in  
 589 community control. However, if the court withholds adjudication  
 590 of guilt or imposes a period of incarceration as a condition of  
 591 community control, the period may not exceed 364 days, and  
 592 incarceration shall be restricted to a county facility, a  
 593 probation and restitution center under the jurisdiction of the  
 594 Department of Corrections, a probation program drug punishment  
 595 phase I secure residential treatment institution, or a community  
 596 residential facility owned or operated by any entity providing  
 597 such services.

598           ~~(3) The court may place a defendant who is being sentenced~~  
 599 ~~for criminal transmission of HIV in violation of s. 775.0877 on~~  
 600 ~~criminal quarantine community control. The Department of~~  
 601 ~~Corrections shall develop and administer a criminal quarantine~~  
 602 ~~community control program emphasizing intensive supervision with~~  
 603 ~~24-hour-per-day electronic monitoring. Criminal quarantine~~  
 604 ~~community control status must include surveillance and may~~  
 605 ~~include other measures normally associated with community~~

606 ~~control, except that specific conditions necessary to monitor~~  
 607 ~~this population may be ordered.~~

608 Section 16. Section 948.11, Florida Statutes, is amended  
 609 to read:

610 948.11 Electronic monitoring devices.--

611 (1) ~~(a)~~ The Department of Corrections may, at its  
 612 discretion, electronically monitor an offender sentenced to  
 613 community control.

614 ~~(b) The Department of Corrections shall electronically~~  
 615 ~~monitor an offender sentenced to criminal quarantine community~~  
 616 ~~control 24 hours per day.~~

617 ~~(2) Any offender placed on community control who violates~~  
 618 ~~the terms and conditions of community control and is restored to~~  
 619 ~~community control may be supervised by means of an electronic~~  
 620 ~~monitoring device or system.~~

621 ~~(3) For those offenders being electronically monitored,~~  
 622 ~~the Department of Corrections shall develop procedures to~~  
 623 ~~determine, investigate, and report the offender's noncompliance~~  
 624 ~~with the terms and conditions of sentence 24 hours per day. All~~  
 625 ~~reports of noncompliance shall be immediately investigated by a~~  
 626 ~~community control officer.~~

627 ~~(4) The Department of Corrections may contract with local~~  
 628 ~~law enforcement agencies to assist in the location and~~  
 629 ~~apprehension of offenders who are in noncompliance as reported~~  
 630 ~~by the electronic monitoring system. This contract is intended~~  
 631 ~~to provide the department a means for providing immediate~~  
 632 ~~investigation of noncompliance reports, especially after normal~~  
 633 ~~office hours.~~

634            (2)~~(5)~~ Any person being electronically monitored by the  
 635 department as a result of placement on supervision ~~community~~  
 636 ~~control~~ shall be required to pay the department for electronic  
 637 monitoring services ~~a surcharge~~ as provided in s. 948.09(2).

638            (3)~~(6)~~ For probationers, community controllees, or  
 639 conditional releasees who have current or prior convictions for  
 640 violent or sexual offenses, the department, in carrying out a  
 641 court or commission order to electronically monitor an offender,  
 642 must use a system that actively monitors and identifies the  
 643 offender's location and timely reports or records the offender's  
 644 presence near or within a crime scene or in a prohibited area or  
 645 the offender's departure from specified geographic limitations.  
 646 Procurement of electronic monitoring services under this  
 647 subsection shall be by competitive procurement in accordance  
 648 with invitation to bid as defined in s. 287.057.

649            (4)~~(7)~~ A person who intentionally alters, tampers with,  
 650 damages, or destroys any electronic monitoring equipment  
 651 pursuant to court or commission order, unless such person is the  
 652 owner of the equipment, or an agent of the owner, performing  
 653 ordinary maintenance and repairs, commits a felony of the third  
 654 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 655 775.084.

656            Section 17. Subsection (2) and paragraph (e) of subsection  
 657 (9) of section 951.23, Florida Statutes, are amended to read:

658            951.23 County and municipal detention facilities;  
 659 definitions; administration; standards and requirements.--

660            (2) COLLECTION OF INFORMATION.--In conjunction with the  
 661 administrators of county detention facilities, the Department of



662 Corrections shall develop an instrument for the collection of  
 663 information from the administrator of each county detention  
 664 facility. Whenever possible, the information shall be  
 665 transmitted by the administrator to the Department of  
 666 Corrections electronically or in a computer readable format. The  
 667 information shall be provided on a monthly basis and shall  
 668 include, but is not limited to, the following:

- 669 (a) The number of persons housed per day who are:
- 670 1. Felons sentenced to cumulative sentences of
  - 671 incarceration of 364 days or less.
  - 672 2. Felons sentenced to cumulative sentences of
  - 673 incarceration of 365 days or more.
  - 674 3. Sentenced misdemeanants.
  - 675 4. Awaiting trial on at least one felony charge.
  - 676 5. Awaiting trial on misdemeanor charges only.
  - 677 6. Convicted felons and misdemeanants who are awaiting
  - 678 sentencing.
  - 679 7. Juveniles.
  - 680 8. State parole violators.
  - 681 9. State inmates who were transferred from a state
  - 682 correctional facility, as defined in s. 944.02, to the county
  - 683 detention facility.

684 ~~(b) The number of persons housed per day, admitted per~~  
 685 ~~month, and housed on the last day of the month, by age, race,~~  
 686 ~~sex, country of citizenship, country of birth, and immigration~~  
 687 ~~status classified as one of the following:~~

- 688 1. ~~Permanent legal resident of the United States.~~
- 689 2. ~~Legal visitor.~~

- 690 ~~3. Undocumented or illegal alien.~~
- 691 ~~4. Unknown status.~~
- 692 (b)~~(e)~~ The number of persons housed per day:
  - 693 1. Pursuant to part I of chapter 394, "The Florida Mental
  - 694 Health Act."
  - 695 2. Pursuant to chapter 397, "Substance Abuse Services."
- 696 ~~(d) The cost per day for housing a person in the county~~
- 697 ~~detention facility.~~
- 698 ~~(e) The number of persons admitted per month, and the~~
- 699 ~~number of persons housed on the last day of the month, by age,~~
- 700 ~~race, and sex, who are:~~
  - 701 1. ~~Felons sentenced to cumulative sentences of~~
  - 702 ~~incarceration of 364 days or less.~~
  - 703 2. ~~Felons sentenced to cumulative sentences of~~
  - 704 ~~incarceration of 365 days or more.~~
  - 705 3. ~~Sentenced misdemeanants.~~
  - 706 4. ~~Awaiting trial on at least one felony charge.~~
  - 707 5. ~~Awaiting trial on misdemeanor charges only.~~
  - 708 6. ~~Convicted felons and misdemeanants who are awaiting~~
  - 709 ~~sentencing.~~
  - 710 7. ~~Juveniles.~~
  - 711 8. ~~State parole violators.~~
  - 712 9. ~~State inmates who were transferred from a state~~
  - 713 ~~correctional facility, as defined in s. 944.02, to the county~~
  - 714 ~~detention facility.~~
- 715 ~~(f) The number of persons admitted per month, by age,~~
- 716 ~~race, and sex:~~

717 1. ~~Pursuant to part I of chapter 394, "The Florida Mental~~  
 718 ~~Health Act."~~

719 2. ~~Pursuant to chapter 397, "Substance Abuse Services."~~

720 (9) INMATE COMMISSARY AND WELFARE FUND.--

721 (e) The officer in charge shall be responsible for an  
 722 audit of the fiscal management of the commissary by a  
 723 disinterested party on an annual basis, which shall include  
 724 certification of compliance with the pricing requirements of  
 725 paragraph ~~(1)~~(b) ~~above~~. Appropriate transaction records and  
 726 stock inventory shall be kept current.

727 Section 18. Paragraph (c) of subsection (5) of section  
 728 958.045, Florida Statutes, is amended to read:

729 958.045 Youthful offender basic training program.--

730 (5)

731 (c) The portion of the sentence served prior to placement  
 732 in the basic training program may not be counted toward program  
 733 completion. Within 30 days prior to the scheduled completion of  
 734 the basic training program, the department shall submit a report  
 735 to the court that describes the offender's performance. If the  
 736 offender's performance has been satisfactory, the court shall  
 737 issue an order modifying the sentence imposed and placing the  
 738 offender on probation effective upon the offender's successful  
 739 completion of the remainder of the program ~~Upon the offender's~~  
 740 ~~completion of the basic training program, the department shall~~  
 741 ~~submit a report to the court that describes the offender's~~  
 742 ~~performance. If the offender's performance has been~~  
 743 ~~satisfactory, the court shall issue an order modifying the~~  
 744 ~~sentence imposed and placing the offender on probation. The term~~

745 of probation may include placement in a community residential  
 746 program. If the offender violates the conditions of probation,  
 747 the court may revoke probation and impose any sentence that it  
 748 might have originally imposed.

749 Section 19. Subsection (2) of section 960.292, Florida  
 750 Statutes, is amended to read:

751 960.292 Enforcement of the civil restitution lien through  
 752 civil restitution lien order.--The civil restitution lien shall  
 753 be made enforceable by means of a civil restitution lien order.

754 (2) Upon motion by the state, upon petition of the local  
 755 subdivision, crime victim, or aggrieved party, or on its own  
 756 motion, the court in which the convicted offender is convicted  
 757 shall enter civil restitution lien orders in favor of crime  
 758 victims, the state, its local subdivisions, and other aggrieved  
 759 parties. The court shall retain continuing jurisdiction over the  
 760 convicted offender for the sole purpose of entering civil  
 761 restitution lien orders for the duration of the sentence and up  
 762 to 5 years from release from incarceration or supervision,  
 763 whichever occurs later.

764 Section 20. Paragraph (b) of subsection (2) of section  
 765 960.293, Florida Statutes, is amended to read:

766 960.293 Determination of damages and losses.--

767 (2) Upon conviction, a convicted offender is liable to the  
 768 state and its local subdivisions for damages and losses for  
 769 incarceration costs and other correctional costs.

770 (b) If the conviction is for an offense other than a  
 771 capital or life felony, a liquidated damage amount of \$50 per  
 772 day of the convicted offender's sentence shall be assessed

773 against the convicted offender and in favor of the state or its  
 774 local subdivisions. Damages shall be based upon the length of  
 775 the sentence imposed by the court at the time of sentencing.

776 Section 21. Section 960.297, Florida Statutes, is amended  
 777 to read:

778 960.297 Authorization for governmental right of  
 779 restitution for costs of incarceration.--

780 (1) The state and its local subdivisions, in a separate  
 781 civil action or as counterclaim in any civil action, may seek  
 782 recovery of the damages and losses set forth in s. 960.293.

783 (2) For those convicted offenders convicted before July 1,  
 784 1994, the state and its local subdivisions, in a separate civil  
 785 action or as a counterclaim in any civil action, may seek  
 786 recovery of the damages and losses set forth in s. 960.293, for  
 787 the convicted offender's remaining sentence after July 1, 1994.

788 (3) Civil actions authorized by the section may be  
 789 commenced anytime during the offender's incarceration and up to  
 790 5 years after the date of the offender's release from  
 791 incarceration or supervision, whichever occurs later.

792 Section 22. This act shall take effect October 1, 2009.