

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1315 Independent Incentivized Prison Program

**SPONSOR(S):** Holcomb

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1048

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Padgett	Hall
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

Generally, the Florida Department of Corrections (DOC) is authorized to operate and manage correctional institutions and classify offenders in its custody in any manner it deems appropriate. Under this authority, DOC created an Incentivized Prison Program, which is a voluntary prison program located at a DOC institution or dorm for inmates who meet strict admissions criteria based on their demonstrated positive behavior while incarcerated. DOC currently operates Incentivized Prison Programs for male inmates at Everglades, Marion, Sumter, Tomoka, Madison, and Jefferson Correctional Institutions, and for female inmates in a dorm at the Lowell Annex. As of April 2022, there were 7,736 male and 257 female inmates participating in the Incentivized Prison Program and approximately 4,600 male inmates were on the waiting list.

HB 1315 creates s. 944.8032, F.S., to require DOC establish an independent incentivized prison program (Program) at a rural correctional institution that houses at least 1,500 male inmates and that is located in a county that has a population of at least 25,000 and not more than 30,000 residents. The bill requires the Program to serve the entire correctional institution at which it is based. Under the bill, to qualify for participation in the Program an inmate must request to participate and must:

- Be serving a term of imprisonment that is a nonviolent offense, or an offense that is *not* a violation of:
  - An offense that would require a person to be designated as a sexual predator under s. 775.21, F.S.,
  - A forcible felony under s. 776.08, F.S., excluding violations of s. 810.02(3)(b), (3)(f), and (4), relating to burglary; or
  - An offense that requires a person to be designated as a sexual offender under s. 943.0435, F.S.;
- Have never been convicted of a violation of an offense that would require a person to be designated as a sexual predator or sexual offender under ss. 775.21 or 943.0435, F.S.;
- Have a tentative release date greater than 24 months away and not more than 60 months away at the time of consideration for the Program; and
- Qualify under DOC rules to participate in the Program.

The bill requires the Program to offer occupational and educational services, substance abuse and mental health treatment, and transitional services in a facility that is at least partially air conditioned. The bill also requires DOC to provide increased incentives to Program participants, including increased visitation and increased or free phone calls. The bill requires DOC to provide reports with specified information, including the recidivism rate of Program participants, to the Governor, the Speaker of the House of Representatives, and the President of the Senate on the implementation and operations of the Program.

The bill may have a fiscal impact on DOC expenditures by requiring DOC to implement the Program requirements specified in the bill, including screening inmates for eligibility; creating occupational training, substance abuse, and educational programs; employing transition specialists; and providing air conditioning in the Program facility.

The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Incentivized Prison Program

Generally, the Florida Department of Corrections (DOC) is authorized to operate and manage correctional institutions and classify offenders in its custody in any manner it deems appropriate.<sup>1</sup> Under this authority, DOC created an Incentivized Prison Program, which is a voluntary prison program located at a DOC institution or dorm for inmates who meet strict admissions criteria based on their demonstrated positive behavior while incarcerated.<sup>2</sup> The Incentivized Prison Program provides enhanced opportunities to inmates by focusing on issues such as quality of life and life skills improvements, education, recreation, leisure, wellness opportunities, and preparation for re-integration into the community.<sup>3</sup> To qualify for participation in an Incentivized Prison Program, an inmate must request to participate and must meet specified criteria for admission, including:

- Not having been assigned to Close Management<sup>4</sup> within the last four years;
- Not having been found guilty of a disciplinary report for specified behaviors while incarcerated, including, in part, sexual battery, lewd and lascivious exhibition, aggravated battery, battery, assault, possession of weapon, escape, introduction of contraband, or other gang-related activities;
- Not having been found guilty within the past two years of a disciplinary report for specified conduct including, in part, making threats, disrespecting DOC officials or employees, or possessing stolen property, or tobacco products;
- Not having been identified as a documented security or disciplinary risk; and
- Being compatible with the Incentivized Prison Program institution's mission and profile.<sup>5</sup>

An inmate in an Incentivized Prison Program receives two additional visitation days during the week and increased access to the institution's canteen.<sup>6</sup>

An inmate may be removed from an Incentivized Prison Program if he or she inmate is found guilty of a disciplinary report that results in disciplinary confinement or of specified disciplinary offenses, requests removal from such program, or is determined to be a security threat.

DOC currently operates Incentivized Prison Programs for male inmates at Everglades, Marion, Sumter, Tomoka, Madison, and Jefferson Correctional Institutions, and for female inmates in a dorm at the Lowell Annex. As of April 2022, there were 7,736 male and 257 female inmates participating in the Incentivized Prison Program and approximately 4,600 male inmates were on the waiting list.<sup>7</sup>

#### Effect of Proposed Changes

HB 1315 creates s. 944.8032, F.S., to establish an independent incentivized prison program (Program) under the DOC Office of Programs and Re-Entry for nonviolent offenders. The bill requires the Program to focus on preparing inmates for reentry into the community by emphasizing education and vocational training, job readiness skills, substance use disorder treatment, mental health treatment, life skills, and post-release planning.

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<sup>1</sup> S. 944.09(1)(a) and (k), F.S.

<sup>2</sup> R. 33-601.250(1)(a), F.A.C.

<sup>3</sup> *Id.*

<sup>4</sup> Close Management means the separation of an inmate apart from the general population, for reasons of security or the order and effective management of the institution, when the inmate, through his or her behavior, has demonstrated an inability to live in the general population without abusing the rights and privileges of others. R. 33-601.800(1)(a), F.A.C.

<sup>5</sup> R. 33-601.250(2), F.A.C.

<sup>6</sup> A "canteen" provides various convenience items for sale to inmates, such as food and toiletries. See R. 33-203.101, F.A.C.

<sup>7</sup> Florida Department of Corrections, *Incentivized Prisons Overview*, April 7, 2022.

The bill requires DOC to establish the Program at a rural correctional institution that houses at least 1,500 male inmates and that is located in a county that has a population of at least 25,000 and not more than 30,000 residents. The bill requires the Program to serve the entire correctional institution at which it is based.

To qualify for participation in the Program, an inmate must:

- Request to participate in the Program using the process developed by DOC in rule;
- Be serving a term of imprisonment for a nonviolent offense, or an offense that is *not* a violation of:
  - An offense that would require a person to be designated as a sexual predator or sexual offender under ss. 775.21 and 943.0435, F.S., respectively; or
  - A forcible felony<sup>8</sup> under s. 776.08, F.S., excluding violations of s. 810.02(3)(b), (3)(f), and (4), relating to burglary.<sup>9</sup>
- Have never been convicted of a violation of an offense that would require a person to be designated as a sexual predator or sexual offender under ss. 775.21 or 943.0435, F.S.;
- Have a tentative release date greater than 24 months away and not more than 60 months away at the time of consideration for the Program; and
- Qualify under DOC rules to participate in the Program.

The bill defines the following terms:

- "Nonviolent offense" means an offense, or attempted offense, that does not involve the intentional use or threat of physical force or violence against another individual.
- "Recidivism" means an inmate's rearrest, conviction, reincarceration, or probation revocation within three years after his or her release from incarceration.
- "Tentative release date" means the anticipated date on which an inmate will be released from incarceration after the application of adjustment for any gain-time earned or credit for time served.

The bill requires DOC to give priority consideration to an inmate who is a veteran<sup>10</sup> if he or she meets the specified requirements for participation in the Program.

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<sup>8</sup> "Forcible felony" means treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual. S. 776.08, F.S.

<sup>9</sup> Sections 810.02(b) and (f) prohibit a person from committing the offense of burglary of an unoccupied dwelling or burglary of a structure or a conveyance with the intent to commit theft of a controlled substance if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive. Section 810.02(4), F.S., prohibits a person from committing the offense of burglary of an unoccupied structure or conveyance if the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive.

<sup>10</sup> The term "veteran" means a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or during one of the following periods of wartime service:

- Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.
- Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders of, or in the waters adjacent to Mexico.
- World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918.
- World War II: December 7, 1941, to December 31, 1946.
- Korean War: June 27, 1950, to January 31, 1955.
- Vietnam War: February 28, 1961, to May 7, 1975.
- Persian Gulf War: August 2, 1990, to January 2, 1992.
- Operation Enduring Freedom: October 7, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law.
- Operation Iraqi Freedom: March 19, 2003, and ending on the date thereafter prescribed by presidential proclamation or by law.

The bill authorizes DOC to remove an inmate from the Program if:

- The inmate is found guilty of a violation on any disciplinary report;
- The inmate requests removal from the Program in a manner prescribed by DOC in rule; or
- DOC determines that the inmate poses a threat to the safety, security, or orderly operation of the Program, and such threat is documented by DOC.

The bill requires DOC to:

- Consult with CareerSource Florida<sup>11</sup> to identify high-demand occupations in which inmates are likely to gain successful employment upon release and to prioritize training and educational opportunities to prepare Program participants for such occupations.
- Evaluate each participant's needs upon entry into the Program related to education and vocational training, substance use and disorder treatment, mental health treatment, and community supports.
- Provide participants access to substance abuse treatment, educational services, and other enrichment services in the same manner as provided in other DOC incentivized prison programs.
- Provide increased visitation and increased phone calls or free phone calls to Program participants and other incentives as DOC deems appropriate.
- Provide Program services in a facility that is at least partially air conditioned.
- Employ transition specialists to develop an individualized reentry plan for each Program participant, which must address occupational, educational, and basic life skills, and who must provide postrelease support following an inmate's release for at least 12 months.
- Provide specialized training for staff and correctional officers supervising the Program.

The bill requires DOC to submit a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by:

- October 1, 2025, which provides an overview of the status of the Program, the occupational and educational programs available to participants, the services and incentives provided to participants, an update on equipping the facility with air conditioning, the number of participants and a description of any disciplinary reports.
- October 1, 2028, and annually thereafter, a report including the number of Program participants and their demographic information, the crimes for which the participants were incarcerated and length of sentence, a description of the educational and vocational courses in the Program, the number of job placements for participants upon release, community involvement, participant satisfaction, the number of participants who were removed from the Program, recommendations from DOC or Program participants, and the recidivism rate of Program participants.

The bill provides an effective date of July 1, 2024.

## B. SECTION DIRECTORY:

**Section 1:** Creates s. 944.8023, F.S., relating to independent incentivized prison program.

**Section 2:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

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<sup>11</sup> CareerSource Florida is a not-for-profit corporation that serves as Florida's workforce development board and provides policy direction on related programs to specified entities. S. 445.004, F.S.

The bill may have a fiscal impact on DOC expenditures by requiring DOC to implement the Program requirements specified in the bill, including screening inmates for eligibility; creating occupational training, substance abuse, and educational programs; employing transition specialists; and providing air conditioning in the Program facility.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides DOC with sufficient rulemaking authority to implement the provisions in the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**