

1 A bill to be entitled

2 An act relating to criminal rehabilitation; amending
3 s. 921.002, F.S.; revising the legislative intent of
4 the Criminal Punishment Code; specifying that to
5 rehabilitate the offender to transition back to the
6 community successfully is one of the primary purposes
7 of sentencing; reducing the minimum sentence that must
8 be served by a defendant from 85 percent of the
9 sentence to 72 percent; amending s. 944.275, F.S.;
10 revising provisions concerning gain-time to provide
11 for outstanding deed gain-time, good behavior time,
12 and rehabilitation credits; providing requirements for
13 such gain-time and credits; providing for amounts to
14 be awarded; revising limits on the award of gain-time;
15 reducing the minimum sentence that must be served by a
16 defendant from 85 percent of the sentence to 72
17 percent; amending ss. 316.027, 316.1935, 381.004,
18 775.084, 775.0845, 775.0847, 775.0861, 775.0862,
19 775.087, 775.0875, 777.03, 777.04, 784.07, 794.011,
20 794.0115, 794.0116, 794.023, 810.145, 812.081,
21 817.568, 831.032, 843.22, 874.04, 944.281, 944.473,
22 944.70, 944.801, and 947.005, F.S.; conforming
23 provisions to changes made by the act; providing an
24 effective date.

25

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

27
 28 **Section 1. Subsection (1) of section 921.002, Florida**
 29 **Statutes, is amended to read:**

30 921.002 The Criminal Punishment Code.—The Criminal
 31 Punishment Code shall apply to all felony offenses, except
 32 capital felonies, committed on or after October 1, 1998.

33 (1) The provision of criminal penalties and of limitations
 34 upon the application of such penalties is a matter of
 35 predominantly substantive law and, as such, is a matter properly
 36 addressed by the Legislature. The Legislature, in the exercise
 37 of its authority and responsibility to establish sentencing
 38 criteria, to provide for the imposition of criminal penalties,
 39 and to make the best use of state prisons so that ~~violent~~
 40 criminal offenders are appropriately punished and rehabilitated
 41 ~~incarcerated~~, has determined that it is in the best interest of
 42 the state to develop, implement, and revise a sentencing policy.
 43 The Criminal Punishment Code embodies the principles that:

44 (a) Sentencing is neutral with respect to race, gender,
 45 and social and economic status.

46 (b) The dual purposes ~~primary purpose~~ of sentencing in the
 47 criminal justice system are ~~is~~ to punish the offender and
 48 rehabilitate the offender to transition back to the community
 49 successfully. ~~Rehabilitation is a desired goal of the criminal~~
 50 ~~justice system but is subordinate to the goal of punishment.~~

51 (c) The penalty imposed is commensurate with the severity
52 of the primary offense and the circumstances surrounding the
53 primary offense.

54 (d) The severity of the sentence increases with the length
55 and nature of the offender's prior record.

56 (e) The sentence imposed by the sentencing judge reflects
57 the length of actual time to be served, shortened only by the
58 application of outstanding deed incentive and meritorious gain-
59 time, good behavior time, and rehabilitation credits as provided
60 by law, and may not be shortened if the defendant would
61 consequently serve less than 72 ~~85~~ percent of his or her term of
62 imprisonment as provided in s. 944.275(4). ~~The provisions of~~
63 Chapter 947, relating to parole, does ~~shall~~ not apply to persons
64 sentenced under the Criminal Punishment Code.

65 (f) Departures below the lowest permissible sentence
66 established by the code must be articulated in writing by the
67 trial court judge and made only when circumstances or factors
68 reasonably justify the mitigation of the sentence. The level of
69 proof necessary to establish facts that support a departure from
70 the lowest permissible sentence is a preponderance of the
71 evidence.

72 (g) The trial court judge may impose a sentence up to and
73 including the statutory maximum for any offense, including an
74 offense that is before the court due to a violation of probation
75 or community control.

76 (h) A sentence may be appealed on the basis that it
 77 departs from the Criminal Punishment Code only if the sentence
 78 is below the lowest permissible sentence or as enumerated in s.
 79 924.06(1).

80 (i) Use of incarcerative sanctions is prioritized toward
 81 offenders convicted of serious offenses and certain offenders
 82 who have long prior records, in order to maximize the finite
 83 capacities of state and local correctional facilities.

84 **Section 2. Section 944.275, Florida Statutes, is amended**
 85 **to read:**

86 944.275 Outstanding deed gain-time, good behavior time,
 87 and rehabilitation credits.—

88 (1) The department is authorized to grant deductions from
 89 sentences in the form of outstanding deed gain-time, good
 90 behavior time, and rehabilitation credits in order to encourage
 91 satisfactory prisoner behavior, to provide incentive for
 92 prisoners to participate in productive activities, and to reward
 93 prisoners who perform outstanding deeds or services.

94 (2) (a) The department shall establish for each prisoner
 95 sentenced to a term of years a "maximum sentence expiration
 96 date," which shall be the date when the sentence or combined
 97 sentences imposed on a prisoner will expire. In establishing
 98 this date, the department shall reduce the total time to be
 99 served by any time lawfully credited.

100 (b) When a prisoner with an established maximum sentence

101 expiration date is sentenced to an additional term or terms
102 without having been released from custody, the department shall
103 extend the maximum sentence expiration date by the length of
104 time imposed in the new sentence or sentences, less lawful
105 credits.

106 (c) When an escaped prisoner or a parole violator is
107 returned to the custody of the department, the maximum sentence
108 expiration date in effect when the escape occurred or the parole
109 was effective shall be extended by the amount of time the
110 prisoner was not in custody plus the time imposed in any new
111 sentence or sentences, but reduced by any lawful credits.

112 (3) (a) The department shall also establish for each
113 prisoner sentenced to a term of years a "tentative release date"
114 which shall be the date projected for the prisoner's release
115 from custody by virtue of outstanding deed gain-time, good
116 behavior time, or rehabilitation credits granted or forfeited as
117 described in this section. The initial tentative release date
118 shall be determined by deducting outstanding deed basic gain-
119 time, good behavior time, or rehabilitation credits granted from
120 the maximum sentence expiration date. Outstanding deed other
121 gain-time, good behavior time, and rehabilitation credits shall
122 be applied when granted or restored to make the tentative
123 release date proportionately earlier; and forfeitures of good
124 behavior time ~~gain-time~~, when ordered, shall be applied to make
125 the tentative release date proportionately later.

126 (b) When an initial tentative release date is
 127 reestablished because of additional sentences imposed before the
 128 prisoner has completely served all prior sentences, any
 129 outstanding deed gain-time, good behavior time, or
 130 rehabilitation credits granted during service of a prior
 131 sentence and not forfeited shall be applied.

132 (c) The tentative release date may not be later than the
 133 maximum sentence expiration date.

134 (4) (a) As a means of encouraging satisfactory behavior and
 135 developing character traits necessary for successful reentry,
 136 the department shall grant good behavior time ~~basic gain-time~~ at
 137 the rate of 10 days for each month of each sentence imposed on a
 138 prisoner, subject to the following:

139 1. Portions of any sentences to be served concurrently
 140 shall be treated as a single sentence when determining good
 141 behavior time ~~basic gain-time~~.

142 2. Good behavior time ~~Basic gain-time~~ for a partial month
 143 shall be prorated on the basis of a 30-day month.

144 3. When a prisoner receives a new maximum sentence
 145 expiration date because of additional sentences imposed, good
 146 behavior time ~~basic gain-time~~ shall be granted for the amount of
 147 time the maximum sentence expiration date was extended.

148 (b) For each month in which an inmate works diligently,
 149 participates in training or education, uses time constructively,
 150 or otherwise engages in positive activities, the department may

151 grant rehabilitation credits ~~incentive gain-time~~ in accordance
152 with this paragraph. The rate of rehabilitation credits
153 ~~incentive gain-time~~ in effect on the date the inmate committed
154 the offense which resulted in his or her incarceration shall be
155 the inmate's rate of eligibility to earn rehabilitation credits
156 ~~incentive gain-time~~ throughout the period of incarceration and
157 shall not be altered by a subsequent change in the severity
158 level of the offense for which the inmate was sentenced.

159 1. For sentences imposed for offenses committed before
160 ~~prior to~~ January 1, 1994, and after October 1, 1995, up to 20
161 days of rehabilitation credits ~~incentive gain-time~~ may be
162 granted. If granted, such rehabilitation credits ~~gain-time~~ shall
163 be credited and applied monthly.

164 2. For sentences imposed for offenses committed on or
165 after January 1, 1994, and before October 1, 1995:

166 a. For offenses ranked in offense severity levels 1
167 through 7, under former s. 921.0012 or former s. 921.0013, up to
168 25 days of rehabilitation credits ~~incentive gain-time~~ may be
169 granted. If granted, such rehabilitation credits ~~gain-time~~ shall
170 be credited and applied monthly.

171 b. For offenses ranked in offense severity levels 8, 9,
172 and 10, under former s. 921.0012 or former s. 921.0013, up to 20
173 days of rehabilitation credits ~~incentive gain-time~~ may be
174 granted. If granted, such gain-time shall be credited and
175 applied monthly.

176 ~~3. For sentences imposed for offenses committed on or~~
177 ~~after October 1, 1995, the department may grant up to 10 days~~
178 ~~per month of incentive gain-time.~~

179 (c) An inmate who performs some outstanding deed, such as
180 saving a life or assisting in recapturing an escaped inmate, or
181 who in some manner performs an outstanding service that would
182 merit the granting of additional deductions from the term of his
183 or her sentence may be granted outstanding deed meritorious
184 gain-time of from 30 ± to 60 days per outstanding deed
185 performed.

186 (d) Notwithstanding the monthly maximum awards of
187 rehabilitation credits ~~incentive gain-time~~ under subparagraphs
188 (b)1. ~~and~~, 2., ~~and~~ 3., ~~the education program manager shall~~
189 ~~recommend,~~ and the Department of Corrections shall ~~may~~ grant
190 awards, ~~a one-time award~~ of 60 additional days of rehabilitation
191 credits for successful completion of each of the following:
192 ~~incentive gain-time to an inmate who is otherwise eligible and~~
193 ~~who successfully completes requirements for and is, or has been~~
194 ~~during the current commitment, awarded a high school equivalency~~
195 diploma, college degree, or vocational certificate, drug
196 treatment program, mental health treatment program, life skills
197 program, behavioral modification program, reentry program, or
198 equivalent rehabilitative program. Additionally, the department
199 shall grant 5 additional days of rehabilitation credits for
200 successful completion of any other department-approved program,

201 including inmate-developed programs, or a passing grade in each
202 online or in-person educational course. Rehabilitation credits
203 awarded under this paragraph shall be retroactive. Under no
204 circumstances may an inmate receive more than 60 days for
205 educational attainment pursuant to this section.

206 (e) Notwithstanding the monthly maximum awards of
207 rehabilitation credits under subparagraphs (b)1. and 2., the
208 department may grant 2 additional days per month of good
209 behavior time to prisoners serving sentences for violations of
210 ss. 893.13 and 893.135, and such days granted shall be
211 retroactive.

212 (f)1.(e)1. Notwithstanding subparagraph (b)1. ~~(b)3.~~, for
213 sentences imposed for offenses committed on or after October 1,
214 2014, and before July 1, 2023, the department may not grant
215 rehabilitation credits ~~incentive gain-time~~ if the offense is a
216 violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s.
217 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
218 800.04; s. 825.1025; or s. 847.0135(5).

219 2. Notwithstanding subparagraph (b)1. ~~(b)3.~~, for sentences
220 imposed for offenses committed on or after July 1, 2023, the
221 department may not grant rehabilitation credits ~~incentive gain-~~
222 ~~time~~ if the offense is for committing or attempting, soliciting,
223 or conspiring to commit a violation of s. 782.04(1)(a)2.c.; s.
224 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,
225 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.

226 847.0135(5).

227 (g)1.(f) An inmate who is subject to this subsection
228 ~~subparagraph (b)3.~~ is not eligible to earn or receive
229 outstanding deed gain-time or good behavior time under paragraph
230 ~~(a), paragraph (b), paragraph (c), or paragraph (d) or any other~~
231 ~~type of gain-time~~ in an amount that would cause a sentence to
232 expire, end, or terminate, or that would result in a prisoner's
233 release, before ~~prior to~~ serving a minimum of 85 percent of the
234 sentence imposed. For purposes of this paragraph, credits
235 awarded by the court for time physically incarcerated shall be
236 credited toward satisfaction of 85 percent of the sentence
237 imposed.

238 2. A prisoner who is subject to this subsection may not
239 accumulate rehabilitation credits as described in paragraph (d)
240 in an amount that would allow a sentence to expire, end, or
241 terminate, or that would result in a prisoner's release, before
242 serving a minimum of 72 percent of the sentence imposed.

243 3. Except as provided by this section, a prisoner may not
244 accumulate further ~~gain-time~~ awards at any point when the
245 tentative release date is the same as that date at which the
246 prisoner will have served 72 ~~85~~ percent of the sentence imposed.
247 State prisoners sentenced to life imprisonment shall be
248 incarcerated for the rest of their natural lives, unless granted
249 pardon or clemency.

250 (5) When a prisoner is found guilty of an infraction of

251 the laws of this state or the rules of the department, good
 252 behavior time not yet vested ~~gain-time~~ may be forfeited
 253 according to law after due process. For purposes of this
 254 subsection, good behavior time is deemed vested 2 years after
 255 being granted.

256 (6) (a) Good behavior time ~~Basic gain-time~~ under this
 257 section shall be computed on and applied to all sentences
 258 imposed for offenses committed on or after July 1, 1978, and
 259 before January 1, 1994.

260 (b) All outstanding deed ~~incentive and meritorious~~ gain-
 261 time, good behavior time, and rehabilitation credits are ~~is~~
 262 granted according to this section.

263 (c) All additional gain-time previously awarded under
 264 former subsections (2) and (3) and all forfeitures ordered
 265 before ~~prior to~~ the effective date of the act that created this
 266 section shall remain in effect and be applied in establishing an
 267 initial tentative release date.

268 (7) The department shall adopt rules to implement the
 269 granting, forfeiture, restoration, and deletion of outstanding
 270 deed gain-time, good behavior time, and rehabilitation credits.

271 **Section 3. Paragraph (f) of subsection (2) of section**
 272 **316.027, Florida Statutes, is amended to read:**

273 316.027 Crash involving death or personal injuries.-

274 (2)

275 (f) For purposes of sentencing under chapter 921 and

276 determining rehabilitation credit ~~incentive gain-time~~
277 eligibility under chapter 944, an offense listed in this
278 subsection is ranked one level above the ranking specified in s.
279 921.0022 or s. 921.0023 for the offense committed if the victim
280 of the offense was a vulnerable road user.

281 **Section 4. Subsection (6) of section 316.1935, Florida**
282 **Statutes, is amended to read:**

283 316.1935 Fleeing or attempting to elude a law enforcement
284 officer; aggravated fleeing or eluding.—

285 (6) Notwithstanding s. 948.01, no court may suspend,
286 defer, or withhold adjudication of guilt or imposition of
287 sentence for any violation of this section. A person convicted
288 and sentenced to a mandatory minimum term of incarceration under
289 paragraph (3) (b) or paragraph (4) (b) is not eligible for
290 ~~statutory gain-time~~ or credits under s. 944.275 or any form of
291 discretionary early release, other than pardon or executive
292 clemency or conditional medical release under s. 947.149, before
293 ~~prior to~~ serving the mandatory minimum sentence.

294 **Section 5. Paragraph (h) of subsection (2) of section**
295 **381.004, Florida Statutes, is amended to read:**

296 381.004 HIV testing.—

297 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
298 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

299 (h) Paragraph (a) does not apply:

300 1. When testing for sexually transmissible diseases is

301 required by state or federal law, or by rule, including the
302 following situations:

303 a. HIV testing pursuant to s. 796.08 of persons convicted
304 of prostitution or of procuring another to commit prostitution.

305 b. HIV testing of inmates pursuant to s. 945.355 before
306 their release from prison by reason of parole, accumulation of
307 gain-time or other credits, or expiration of sentence.

308 c. Testing for HIV by a medical examiner in accordance
309 with s. 406.11.

310 d. HIV testing of pregnant women pursuant to s. 384.31.

311 2. To those exceptions provided for blood, plasma, organs,
312 skin, semen, or other human tissue pursuant to s. 381.0041.

313 3. For the performance of an HIV-related test by licensed
314 medical personnel in bona fide medical emergencies if the test
315 results are necessary for medical diagnostic purposes to provide
316 appropriate emergency care or treatment to the person being
317 tested and the patient is unable to consent, as supported by
318 documentation in the medical record. Notification of test
319 results in accordance with paragraph (c) is required.

320 4. For the performance of an HIV-related test by licensed
321 medical personnel for medical diagnosis of acute illness where,
322 in the opinion of the attending physician, providing
323 notification would be detrimental to the patient, as supported
324 by documentation in the medical record, and the test results are
325 necessary for medical diagnostic purposes to provide appropriate

326 care or treatment to the person being tested. Notification of
327 test results in accordance with paragraph (c) is required if it
328 would not be detrimental to the patient. This subparagraph does
329 not authorize the routine testing of patients for HIV infection
330 without notification.

331 5. If HIV testing is performed as part of an autopsy for
332 which consent was obtained pursuant to s. 872.04.

333 6. For the performance of an HIV test upon a defendant
334 pursuant to the victim's request in a prosecution for any type
335 of sexual battery where a blood sample is taken from the
336 defendant voluntarily, pursuant to court order for any purpose,
337 or pursuant to s. 775.0877, s. 951.27, or s. 960.003; however,
338 the results of an HIV test performed shall be disclosed solely
339 to the victim and the defendant, except as provided in ss.
340 775.0877, 951.27, and 960.003.

341 7. If an HIV test is mandated by court order.

342 8. For epidemiological research pursuant to s. 381.0031,
343 for research consistent with institutional review boards created
344 by 45 C.F.R. part 46, or for the performance of an HIV-related
345 test for the purpose of research, if the testing is performed in
346 a manner by which the identity of the test subject is not known
347 and may not be retrieved by the researcher.

348 9. If human tissue is collected lawfully without the
349 consent of the donor for corneal removal as authorized by s.
350 765.5185 or enucleation of the eyes as authorized by s. 765.519.

351 10. For the performance of an HIV test upon an individual
352 who comes into contact with medical personnel in such a way that
353 a significant exposure has occurred during the course of
354 employment, within the scope of practice, or during the course
355 of providing emergency medical assistance to the individual. The
356 term "medical personnel" includes a licensed or certified health
357 care professional; an employee of a health care professional or
358 health care facility; employees of a laboratory licensed under
359 chapter 483; personnel of a blood bank or plasma center; a
360 medical student or other student who is receiving training as a
361 health care professional at a health care facility; and a
362 paramedic or emergency medical technician certified by the
363 department to perform life-support procedures under s. 401.23.

364 a. The occurrence of a significant exposure shall be
365 documented by medical personnel under the supervision of a
366 licensed physician and recorded only in the personnel record of
367 the medical personnel.

368 b. Costs of an HIV test shall be borne by the medical
369 personnel or the employer of the medical personnel. However,
370 costs of testing or treatment not directly related to the
371 initial HIV tests or costs of subsequent testing or treatment
372 may not be borne by the medical personnel or the employer of the
373 medical personnel.

374 c. In order to use the provisions of this subparagraph,
375 the medical personnel must be tested for HIV pursuant to this

376 section or provide the results of an HIV test taken within 6
377 months before the significant exposure if such test results are
378 negative.

379 d. A person who receives the results of an HIV test
380 pursuant to this subparagraph shall maintain the confidentiality
381 of the information received and of the persons tested. Such
382 confidential information is exempt from s. 119.07(1).

383 e. If the source of the exposure is not available and will
384 not voluntarily present himself or herself to a health facility
385 to be tested for HIV, the medical personnel or the employer of
386 such person acting on behalf of the employee may seek a court
387 order directing the source of the exposure to submit to HIV
388 testing. A sworn statement by a physician licensed under chapter
389 458 or chapter 459 that a significant exposure has occurred and
390 that, in the physician's medical judgment, testing is medically
391 necessary to determine the course of treatment constitutes
392 probable cause for the issuance of an order by the court. The
393 results of the test shall be released to the source of the
394 exposure and to the person who experienced the exposure.

395 11. For the performance of an HIV test upon an individual
396 who comes into contact with nonmedical personnel in such a way
397 that a significant exposure has occurred while the nonmedical
398 personnel provides emergency medical assistance during a medical
399 emergency. For the purposes of this subparagraph, a medical
400 emergency means an emergency medical condition outside of a

401 hospital or health care facility that provides physician care.
402 The test may be performed only during the course of treatment
403 for the medical emergency.

404 a. The occurrence of a significant exposure shall be
405 documented by medical personnel under the supervision of a
406 licensed physician and recorded in the medical record of the
407 nonmedical personnel.

408 b. Costs of any HIV test shall be borne by the nonmedical
409 personnel or the employer of the nonmedical personnel. However,
410 costs of testing or treatment not directly related to the
411 initial HIV tests or costs of subsequent testing or treatment
412 may not be borne by the nonmedical personnel or the employer of
413 the nonmedical personnel.

414 c. In order to use the provisions of this subparagraph,
415 the nonmedical personnel shall be tested for HIV pursuant to
416 this section or shall provide the results of an HIV test taken
417 within 6 months before the significant exposure if such test
418 results are negative.

419 d. A person who receives the results of an HIV test
420 pursuant to this subparagraph shall maintain the confidentiality
421 of the information received and of the persons tested. Such
422 confidential information is exempt from s. 119.07(1).

423 e. If the source of the exposure is not available and will
424 not voluntarily present himself or herself to a health facility
425 to be tested for HIV, the nonmedical personnel or the employer

426 of the nonmedical personnel acting on behalf of the employee may
427 seek a court order directing the source of the exposure to
428 submit to HIV testing. A sworn statement by a physician licensed
429 under chapter 458 or chapter 459 that a significant exposure has
430 occurred and that, in the physician's medical judgment, testing
431 is medically necessary to determine the course of treatment
432 constitutes probable cause for the issuance of an order by the
433 court. The results of the test shall be released to the source
434 of the exposure and to the person who experienced the exposure.

435 12. For the performance of an HIV test by the medical
436 examiner or attending physician upon an individual who expired
437 or could not be resuscitated while receiving emergency medical
438 assistance or care and who was the source of a significant
439 exposure to medical or nonmedical personnel providing such
440 assistance or care.

441 a. HIV testing may be conducted only after appropriate
442 medical personnel under the supervision of a licensed physician
443 documents in the medical record of the medical personnel or
444 nonmedical personnel that there has been a significant exposure
445 and that, in accordance with the written protocols based on the
446 National Centers for Disease Control and Prevention guidelines
447 on HIV postexposure prophylaxis and in the physician's medical
448 judgment, the information is medically necessary to determine
449 the course of treatment for the medical personnel or nonmedical
450 personnel.

451 b. Costs of an HIV test performed under this subparagraph
452 may not be charged to the deceased or to the family of the
453 deceased person.

454 c. For this subparagraph to be applicable, the medical
455 personnel or nonmedical personnel must be tested for HIV under
456 this section or must provide the results of an HIV test taken
457 within 6 months before the significant exposure if such test
458 results are negative.

459 d. A person who receives the results of an HIV test
460 pursuant to this subparagraph shall comply with paragraph (e).

461 13. For the performance of an HIV-related test medically
462 indicated by licensed medical personnel for medical diagnosis of
463 a hospitalized infant as necessary to provide appropriate care
464 and treatment of the infant if, after a reasonable attempt, a
465 parent cannot be contacted to provide consent. The medical
466 records of the infant must reflect the reason consent of the
467 parent was not initially obtained. Test results shall be
468 provided to the parent when the parent is located.

469 14. For the performance of HIV testing conducted to
470 monitor the clinical progress of a patient previously diagnosed
471 to be HIV positive.

472 15. For the performance of repeated HIV testing conducted
473 to monitor possible conversion from a significant exposure.

474 **Section 6. Paragraph (k) of subsection (4) of section**
475 **775.084, Florida Statutes, is amended to read:**

476 775.084 Violent career criminals; habitual felony
477 offenders and habitual violent felony offenders; three-time
478 violent felony offenders; definitions; procedure; enhanced
479 penalties or mandatory minimum prison terms.—

480 (4)

481 (k)1. A defendant sentenced under this section as a
482 habitual felony offender, a habitual violent felony offender, or
483 a violent career criminal is eligible for rehabilitation credits
484 ~~gain-time~~ granted by the Department of Corrections as provided
485 in s. 944.275(4)(b).

486 2. For an offense committed on or after October 1, 1995, a
487 defendant sentenced under this section as a violent career
488 criminal is not eligible for any form of discretionary early
489 release, other than pardon or executive clemency, or conditional
490 medical release granted pursuant to s. 947.149.

491 3. For an offense committed on or after July 1, 1999, a
492 defendant sentenced under this section as a three-time violent
493 felony offender shall be released only by expiration of sentence
494 and shall not be eligible for parole, control release, or any
495 form of early release.

496 **Section 7. Paragraph (b) of subsection (1) and subsection**
497 **(2) of section 775.0845, Florida Statutes, are amended to read:**

498 775.0845 Wearing mask while committing offense;
499 reclassification.—The felony or misdemeanor degree of any
500 criminal offense, other than a violation of ss. 876.12-876.15,

501 shall be reclassified to the next higher degree as provided in
502 this section if, while committing the offense, the offender was
503 wearing a hood, mask, or other device that concealed his or her
504 identity.

505 (1)

506 (b) In the case of a misdemeanor of the first degree, the
507 offense is reclassified to a felony of the third degree. For
508 purposes of sentencing under chapter 921 and determining
509 rehabilitation credit ~~incentive gain-time~~ eligibility under
510 chapter 944, such offense is ranked in level 2 of the offense
511 severity ranking chart.

512 (2) (a) In the case of a felony of the third degree, the
513 offense is reclassified to a felony of the second degree.

514 (b) In the case of a felony of the second degree, the
515 offense is reclassified to a felony of the first degree.

516

517 For purposes of sentencing under chapter 921 and determining
518 rehabilitation credit ~~incentive gain-time~~ eligibility under
519 chapter 944, a felony offense that is reclassified under this
520 subsection is ranked one level above the ranking under former s.
521 921.0012, former s. 921.0013, s. 921.0022, or s. 921.0023 of the
522 offense committed.

523 **Section 8. Section 775.0847, Florida Statutes, is amended**
524 **to read:**

525 775.0847 Possession or promotion of certain images of

526 child pornography; reclassification.—

527 (1) For purposes of this section:

528 (a) "Child" or "minor" means any person, whose identity is
529 known or unknown, younger than 18 years of age.

530 (b) "Child pornography" means:

531 1. Any image depicting a minor engaged in sexual conduct;

532 or

533 2. Any image that has been created, altered, adapted, or
534 modified by electronic, mechanical, or other means, to portray
535 an identifiable minor engaged in sexual conduct.

536 (c) "Female genitals" includes the labia minora, labia
537 majora, clitoris, vulva, hymen, and vagina.

538 (d) "Identifiable minor" means a person:

539 1. Who was a minor at the time the image was created,
540 altered, adapted, or modified, or whose image as a minor was
541 used in the creating, altering, adapting, or modifying of the
542 image; and

543 2. Who is recognizable as an actual person by the person's
544 face, likeness, or other distinguishing characteristic, such as
545 a unique birthmark, or other recognizable feature.

546

547 The term may not be construed to require proof of the actual
548 identity of the identifiable minor.

549 (e) "Sadomasochistic abuse" means flagellation or torture
550 by or upon a person or the condition of being fettered, bound,

551 or otherwise physically restrained, for the purpose of deriving
552 sexual satisfaction, or satisfaction brought about as a result
553 of sadistic violence, from inflicting harm on another or
554 receiving such harm oneself.

555 (f) "Sexual battery" means oral, anal, or female genital
556 penetration by, or union with, the sexual organ of another or
557 the anal or female genital penetration of another by any other
558 object; however, sexual battery does not include an act done for
559 a bona fide medical purpose.

560 (g) "Sexual bestiality" means any sexual act, actual or
561 simulated, between a person and an animal involving the sex
562 organ of the one and the mouth, anus, or female genitals of the
563 other.

564 (h) "Sexual conduct" means actual or simulated sexual
565 intercourse, deviate sexual intercourse, sexual bestiality,
566 masturbation, or sadomasochistic abuse; actual or simulated lewd
567 exhibition of the genitals; actual physical contact with a
568 person's clothed or unclothed genitals, pubic area, buttocks,
569 or, if such person is a female, breast with the intent to arouse
570 or gratify the sexual desire of either party; or any act or
571 conduct which constitutes sexual battery or simulates that
572 sexual battery is being or will be committed. A mother's
573 breastfeeding of her baby does not under any circumstance
574 constitute "sexual conduct."

575 (2) A violation of s. 827.071, s. 847.0135, s. 847.0137,

576 or s. 847.0138 shall be reclassified to the next higher degree
 577 as provided in subsection (3) if:

578 (a) The offender possesses 10 or more images of any form
 579 of child pornography regardless of content; and

580 (b) The content of at least one image contains one or more
 581 of the following:

582 1. A child who is younger than the age of 5.

583 2. Sadoomasochistic abuse involving a child.

584 3. Sexual battery involving a child.

585 4. Sexual bestiality involving a child.

586 5. Any motion picture, film, video, or computer-generated
 587 motion picture, film, or video involving a child, regardless of
 588 length and regardless of whether the motion picture, film,
 589 video, or computer-generated motion picture, film, or video
 590 contains sound.

591 (3) (a) In the case of a felony of the third degree, the
 592 offense is reclassified to a felony of the second degree.

593 (b) In the case of a felony of the second degree, the
 594 offense is reclassified to a felony of the first degree.

595
 596 For purposes of sentencing under chapter 921 and determining
 597 rehabilitation credit ~~incentive gain-time~~ eligibility under
 598 chapter 944, a felony offense that is reclassified under this
 599 section is ranked one level above the ranking under s. 921.0022
 600 or s. 921.0023 of the offense committed.

601 **Section 9. Subsection (3) of section 775.0861, Florida**
 602 **Statutes, is amended to read:**

603 775.0861 Offenses against persons on the grounds of
 604 religious institutions; reclassification.—

605 (3) (a) In the case of a misdemeanor of the second degree,
 606 the offense is reclassified to a misdemeanor of the first
 607 degree.

608 (b) In the case of a misdemeanor of the first degree, the
 609 offense is reclassified to a felony of the third degree. For
 610 purposes of sentencing under chapter 921, such offense is ranked
 611 in level 2 of the offense severity ranking chart.

612 (c) In the case of a felony of the third degree, the
 613 offense is reclassified to a felony of the second degree.

614 (d) In the case of a felony of the second degree, the
 615 offense is reclassified to a felony of the first degree.

616 (e) In the case of a felony of the first degree, the
 617 offense is reclassified to a life felony.

618
 619 For purposes of sentencing under chapter 921 and determining
 620 rehabilitation credit ~~incentive gain-time~~ eligibility under
 621 chapter 944, a felony offense that is reclassified under this
 622 subsection is ranked one level above the ranking under s.
 623 921.0022 or s. 921.0023 of the offense committed.

624 **Section 10. Subsection (3) of section 775.0862, Florida**
 625 **Statutes, is amended to read:**

626 775.0862 Sexual offenses against students by authority
 627 figures; reclassification.—

628 (3) (a) In the case of a felony of the third degree, the
 629 offense is reclassified to a felony of the second degree.

630 (b) In the case of a felony of the second degree, the
 631 offense is reclassified to a felony of the first degree.

632 (c) In the case of a felony of the first degree, the
 633 offense is reclassified to a life felony.

634

635 For purposes of sentencing under chapter 921 and determining
 636 rehabilitation credit ~~incentive gain-time~~ eligibility under
 637 chapter 944, a felony offense that is reclassified under this
 638 subsection is ranked one level above the ranking under s.
 639 921.0022 or s. 921.0023 of the offense committed.

640 **Section 11. Subsection (1), paragraph (b) of subsection**
 641 **(2), and paragraph (b) of subsection (3) of section 775.087,**
 642 **Florida Statutes, are amended to read:**

643 775.087 Possession or use of weapon; aggravated battery;
 644 felony reclassification; minimum sentence.—

645 (1) Unless otherwise provided by law, whenever a person is
 646 charged with a felony, except a felony in which the use of a
 647 weapon or firearm is an essential element, and during the
 648 commission of such felony the defendant carries, displays, uses,
 649 threatens to use, or attempts to use any weapon or firearm, or
 650 during the commission of such felony the defendant commits an

651 aggravated battery, the felony for which the person is charged
652 shall be reclassified as follows:

653 (a) In the case of a felony of the first degree, to a life
654 felony.

655 (b) In the case of a felony of the second degree, to a
656 felony of the first degree.

657 (c) In the case of a felony of the third degree, to a
658 felony of the second degree.

659

660 For purposes of sentencing under chapter 921 and determining
661 rehabilitation credit ~~incentive gain-time~~ eligibility under
662 chapter 944, a felony offense which is reclassified under this
663 section is ranked one level above the ranking under s. 921.0022
664 or s. 921.0023 of the felony offense committed.

665 (2)

666 (b) Subparagraph (a)1., subparagraph (a)2., or
667 subparagraph (a)3. does not prevent a court from imposing a
668 longer sentence of incarceration as authorized by law in
669 addition to the minimum mandatory sentence, or from imposing a
670 sentence of death pursuant to other applicable law. Subparagraph
671 (a)1., subparagraph (a)2., or subparagraph (a)3. does not
672 authorize a court to impose a lesser sentence than otherwise
673 required by law.

674

675 Notwithstanding s. 948.01, adjudication of guilt or imposition

676 of sentence shall not be suspended, deferred, or withheld, and
677 the defendant is not eligible for ~~statutory~~ gain-time or credits
678 under s. 944.275 or any form of discretionary early release,
679 other than pardon or executive clemency, or conditional medical
680 release under s. 947.149, before ~~prior to~~ serving the minimum
681 sentence.

682 (3)

683 (b) Subparagraph (a)1., subparagraph (a)2., or
684 subparagraph (a)3. does not prevent a court from imposing a
685 longer sentence of incarceration as authorized by law in
686 addition to the minimum mandatory sentence, or from imposing a
687 sentence of death pursuant to other applicable law. Subparagraph
688 (a)1., subparagraph (a)2., or subparagraph (a)3. does not
689 authorize a court to impose a lesser sentence than otherwise
690 required by law.

691 Notwithstanding s. 948.01, adjudication of guilt or imposition
692 of sentence shall not be suspended, deferred, or withheld, and
693 the defendant is not eligible for ~~statutory~~ gain-time or credits
694 under s. 944.275 or any form of discretionary early release,
695 other than pardon or executive clemency, or conditional medical
696 release under s. 947.149, prior to serving the minimum sentence.

697 **Section 12. Subsection (2) of section 775.0875, Florida**
698 **Statutes, is amended to read:**

699 775.0875 Unlawful taking, possession, or use of law
700 enforcement officer's firearm; crime reclassification;

701 penalties.—

702 (2) If a person violates subsection (1) and commits any
703 other crime involving the firearm taken from the law enforcement
704 officer, such crime shall be reclassified as follows:

705 (a)1. In the case of a felony of the first degree, to a
706 life felony.

707 2. In the case of a felony of the second degree, to a
708 felony of the first degree.

709 3. In the case of a felony of the third degree, to a
710 felony of the second degree.

711

712 For purposes of sentencing under chapter 921 and determining
713 rehabilitation credit ~~incentive gain-time~~ eligibility under
714 chapter 944, a felony offense that is reclassified under this
715 paragraph is ranked one level above the ranking under s.
716 921.0022 or s. 921.0023 of the felony offense committed.

717 (b) In the case of a misdemeanor, to a felony of the third
718 degree. For purposes of sentencing under chapter 921 and
719 determining rehabilitation credit ~~incentive gain-time~~
720 eligibility under chapter 944, such offense is ranked in level 2
721 of the offense severity ranking chart.

722 **Section 13. Subsection (3) of section 777.03, Florida**
723 **Statutes, is amended to read:**

724 777.03 Accessory after the fact.—

725 (3) Except as otherwise provided in s. 921.0022, for

726 purposes of sentencing under chapter 921 and determining
727 rehabilitation credit ~~incentive gain-time~~ eligibility under
728 chapter 944, the offense of accessory after the fact is ranked
729 two levels below the ranking under s. 921.0022 or s. 921.0023 of
730 the felony offense committed.

731 **Section 14. Paragraph (a) of subsection (4) of section**
732 **777.04, Florida Statutes, is amended to read:**

733 777.04 Attempts, solicitation, and conspiracy.—

734 (4) (a) Except as otherwise provided in ss. 104.091(2),
735 379.2431(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022,
736 the offense of criminal attempt, criminal solicitation, or
737 criminal conspiracy is ranked for purposes of sentencing under
738 chapter 921 and determining rehabilitation credit ~~incentive~~
739 ~~gain-time~~ eligibility under chapter 944 one level below the
740 ranking under s. 921.0022 or s. 921.0023 of the offense
741 attempted, solicited, or conspired to. If the criminal attempt,
742 criminal solicitation, or criminal conspiracy is of an offense
743 ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023,
744 such offense is a misdemeanor of the first degree, punishable as
745 provided in s. 775.082 or s. 775.083.

746 **Section 15. Subsection (3) of section 784.07, Florida**
747 **Statutes, is amended to read:**

748 784.07 Assault or battery of law enforcement officers and
749 other specified personnel; reclassification of offenses; minimum
750 sentences.—

751 (3) Any person who is convicted of a battery under
 752 paragraph (2)(b) and, during the commission of the offense, such
 753 person possessed:

754 (a) A "firearm" or "destructive device" as those terms are
 755 defined in s. 790.001, shall be sentenced to a minimum term of
 756 imprisonment of 3 years.

757 (b) A semiautomatic firearm and its high-capacity
 758 detachable box magazine, as defined in s. 775.087(3), or a
 759 machine gun as defined in s. 790.001, shall be sentenced to a
 760 minimum term of imprisonment of 8 years.

761
 762 Notwithstanding s. 948.01, adjudication of guilt or imposition
 763 of sentence shall not be suspended, deferred, or withheld, and
 764 the defendant is not eligible for ~~statutory~~ gain-time or credits
 765 under s. 944.275 or any form of discretionary early release,
 766 other than pardon or executive clemency, or conditional medical
 767 release under s. 947.149, before ~~prior to~~ serving the minimum
 768 sentence.

769 **Section 16. Paragraphs (a) and (b) of subsection (7) of**
 770 **section 794.011, Florida Statutes, are amended to read:**

771 794.011 Sexual battery.—

772 (7) (a) A person who is convicted of committing a sexual
 773 battery on or after October 1, 1992, is not eligible for ~~basic~~
 774 gain-time or credits under s. 944.275.

775 (b) Notwithstanding paragraph (a), for sentences imposed

776 for offenses committed on or after July 1, 2023, a person who is
777 convicted of committing or attempting, soliciting, or conspiring
778 to commit a sexual battery in violation of this section is not
779 eligible for ~~basic~~ gain-time or credits under s. 944.275.

780 **Section 17. Subsection (7) of section 794.0115, Florida**
781 **Statutes, is amended to read:**

782 794.0115 Dangerous sexual felony offender; mandatory
783 sentencing.—

784 (7) A defendant sentenced to a mandatory minimum term of
785 imprisonment under this section is not eligible for ~~statutory~~
786 gain-time or credits under s. 944.275 or any form of
787 discretionary early release, other than pardon or executive
788 clemency, or conditional medical release under s. 947.149,
789 before serving the minimum sentence.

790 **Section 18. Subsection (3) of section 794.0116, Florida**
791 **Statutes, is amended to read:**

792 794.0116 Sexual offenses by persons previously convicted
793 of sexual offenses.—

794 (3) A defendant sentenced to a mandatory minimum term of
795 imprisonment under this section is not eligible for ~~statutory~~
796 gain-time or credits under s. 944.275 or any form of
797 discretionary early release, other than pardon or executive
798 clemency, or conditional medical release under s. 947.149,
799 before serving the minimum sentence.

800 **Section 19. Subsection (2) of section 794.023, Florida**

801 **Statutes, is amended to read:**

802 794.023 Sexual battery by multiple perpetrators;
803 reclassification of offenses.—

804 (2) A violation of s. 794.011 shall be reclassified as
805 provided in this subsection if it is charged and proven by the
806 prosecution that, during the same criminal transaction or
807 episode, more than one person committed an act of sexual battery
808 on the same victim.

809 (a) A felony of the second degree is reclassified to a
810 felony of the first degree.

811 (b) A felony of the first degree is reclassified to a life
812 felony.

813
814 This subsection does not apply to life felonies or capital
815 felonies. For purposes of sentencing under chapter 921 and
816 determining rehabilitation credit ~~incentive gain-time~~
817 eligibility under chapter 944, a felony offense that is
818 reclassified under this subsection is ranked one level above the
819 ranking under s. 921.0022 or s. 921.0023 of the offense
820 committed.

821 **Section 20. Subsection (7) of section 810.145, Florida**
822 **Statutes, is amended to read:**

823 810.145 Digital voyeurism.—

824 (7) (a) A person who violates this section and who has
825 previously been convicted of or adjudicated delinquent for any

826 violation of this section commits a felony of the second degree,
 827 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

828 (b) If a person who is 19 years or age or older commits a
 829 violation of this section and is a family or household member of
 830 the victim or holds a position of authority or trust with the
 831 victim, the court shall reclassify the felony to the next higher
 832 degree as follows:

833 1. A felony of the third degree is reclassified as a
 834 felony of the second degree.

835 2. A felony of the second degree is reclassified as a
 836 felony of the first degree.

837
 838 For purposes of sentencing under chapter 921 and rehabilitation
 839 credit ~~incentive gain time~~ eligibility under chapter 944, a
 840 felony that is reclassified under this subsection is ranked one
 841 level above the ranking under s. 921.0022 of the felony offense
 842 committed.

843 **Section 21. Subsection (4) of section 812.081, Florida**
 844 **Statutes, is amended to read:**

845 812.081 Theft of or trafficking in trade secrets;
 846 definitions; penalties; providing to foreign entities;
 847 restitution.—

848 (4) Whenever a person is charged with a violation of this
 849 section which was committed with the intent to benefit a foreign
 850 government, a foreign agent, or a foreign instrumentality, the

851 offense for which the person is charged shall be reclassified as
 852 follows:

853 (a) In the case of theft of a trade secret, from a felony
 854 of the third degree to a felony of the second degree.

855 (b) In the case of trafficking in trade secrets, from a
 856 felony of the second degree to a felony of the first degree.

857
 858 For purposes of sentencing under chapter 921 and determining
 859 rehabilitation credit ~~incentive gain time~~ eligibility under
 860 chapter 944, a felony offense that is reclassified under this
 861 subsection is ranked one level above the ranking under s.
 862 921.0022 of the offense committed.

863 **Section 22. Subsection (5) of section 817.568, Florida**
 864 **Statutes, is amended to read:**

865 817.568 Criminal use of personal identification
 866 information.—

867 (5) If an offense prohibited under this section was
 868 facilitated or furthered by the use of a public record, as
 869 defined in s. 119.011, the offense is reclassified to the next
 870 higher degree as follows:

871 (a) A misdemeanor of the first degree is reclassified as a
 872 felony of the third degree.

873 (b) A felony of the third degree is reclassified as a
 874 felony of the second degree.

875 (c) A felony of the second degree is reclassified as a

876 felony of the first degree.

877

878 For purposes of sentencing under chapter 921 and rehabilitation
879 credit ~~incentive gain time~~ eligibility under chapter 944, a
880 felony offense that is reclassified under this subsection is
881 ranked one level above the ranking under s. 921.0022 of the
882 felony offense committed, and a misdemeanor offense that is
883 reclassified under this subsection is ranked in level 2 of the
884 offense severity ranking chart in s. 921.0022.

885 **Section 23. Paragraph (b) of subsection (3) of section**
886 **831.032, Florida Statutes, is amended to read:**

887 831.032 Offenses involving forging or counterfeiting
888 private labels.—

889 (3)

890 (b) For any person who, having previously been convicted
891 for an offense under this section, is subsequently convicted for
892 another offense under this section, such subsequent offense
893 shall be reclassified as follows:

894 1. In the case of a felony of the second degree, to a
895 felony of the first degree.

896 2. In the case of a felony of the third degree, to a
897 felony of the second degree.

898 3. In the case of a misdemeanor of the first degree, to a
899 felony of the third degree. For purposes of sentencing under
900 chapter 921 and determining rehabilitation credit ~~incentive~~

901 ~~gain-time~~ eligibility under chapter 944, such offense is ranked
902 in level 4 of the offense severity ranking chart.

903

904 For purposes of sentencing under chapter 921 and determining
905 rehabilitation credit ~~incentive-gain-time~~ eligibility under
906 chapter 944, a felony offense that is reclassified under this
907 paragraph is ranked one level above the ranking under s.
908 921.0022 or s. 921.0023 of the felony offense committed.

909 **Section 24. Subsection (2) of section 843.22, Florida**
910 **Statutes, is amended to read:**

911 843.22 Traveling across county lines with intent to commit
912 a burglary.—

913 (2) If a person who commits a burglary travels any
914 distance with the intent to commit the burglary in a county in
915 this state other than the person's county of residence, the
916 degree of the burglary shall be reclassified to the next higher
917 degree. For purposes of sentencing under chapter 921 and
918 determining rehabilitation credit ~~incentive-gain-time~~
919 eligibility under chapter 944, a burglary that is reclassified
920 under this section is ranked one level above the ranking
921 specified in s. 921.0022 or s. 921.0023 for the burglary
922 committed.

923 **Section 25. Paragraph (b) of subsection (1) and subsection**
924 **(2) of section 874.04, Florida Statutes, are amended to read:**

925 874.04 Gang-related offenses; enhanced penalties.—Upon a

926 finding by the factfinder that the defendant committed the
927 charged offense for the purpose of benefiting, promoting, or
928 furthering the interests of a criminal gang, the penalty for any
929 felony or misdemeanor, or any delinquent act or violation of law
930 which would be a felony or misdemeanor if committed by an adult,
931 may be enhanced. Penalty enhancement affects the applicable
932 statutory maximum penalty only. Each of the findings required as
933 a basis for such sentence shall be found beyond a reasonable
934 doubt. The enhancement will be as follows:

935 (1)

936 (b) A misdemeanor of the first degree may be punished as
937 if it were a felony of the third degree. For purposes of
938 sentencing under chapter 921 and determining rehabilitation
939 credit ~~incentive gain time~~ eligibility under chapter 944, such
940 offense is ranked in level 1 of the offense severity ranking
941 chart. The criminal gang multiplier in s. 921.0024 does not
942 apply to misdemeanors enhanced under this paragraph.

943 (2) (a) A felony of the third degree may be punished as if
944 it were a felony of the second degree.

945 (b) A felony of the second degree may be punished as if it
946 were a felony of the first degree.

947 (c) A felony of the first degree may be punished as if it
948 were a life felony.

949

950 For purposes of sentencing under chapter 921 and determining

951 rehabilitation credit ~~incentive gain-time~~ eligibility under
 952 chapter 944, such felony offense is ranked as provided in s.
 953 921.0022 or s. 921.0023, and without regard to the penalty
 954 enhancement in this subsection.

955 **Section 26. Section 944.281, Florida Statutes, is amended**
 956 **to read:**

957 944.281 Ineligibility to earn rehabilitation credits ~~gain-~~
 958 ~~time~~ due to disciplinary action.—The department may declare that
 959 a prisoner who commits a violation of any law of the state or
 960 rule or regulation of the department or institution on or after
 961 January 1, 1996, and who is found guilty pursuant to s.
 962 944.28(2), shall not be eligible to earn rehabilitation credits
 963 ~~incentive gain-time~~ for up to 6 months following the month in
 964 which the violation occurred. The department shall adopt rules
 965 to administer ~~the provisions of~~ this section.

966 **Section 27. Subsection (1) of section 944.473, Florida**
 967 **Statutes, is amended to read:**

968 944.473 Inmate substance abuse testing program.—

969 (1) RULES AND PROCEDURES.—The department shall establish
 970 programs for random and reasonable suspicion drug and alcohol
 971 testing by urinalysis or other noninvasive procedure for inmates
 972 to effectively identify those inmates abusing drugs, alcohol, or
 973 both. The department shall also adopt rules relating to fair,
 974 economical, and accurate operations and procedures of a random
 975 inmate substance abuse testing program and a reasonable

976 suspicion substance abuse testing program by urinalysis or other
977 noninvasive procedure which enumerate penalties for positive
978 test results, including but not limited to the forfeiture of
979 rehabilitation credits ~~both basic and incentive gain-time~~, and
980 which do not limit the number of times an inmate may be tested
981 in any one fiscal or calendar year.

982 **Section 28. Paragraph (b) of subsection (1) of section**
983 **944.70, Florida Statutes, is amended to read:**

984 944.70 Conditions for release from incarceration.—

985 (1)

986 (b) A person who is convicted of a crime committed on or
987 after January 1, 1994, may be released from incarceration only:

988 1. Upon expiration of the person's sentence;

989 2. Upon expiration of the person's sentence as reduced by
990 accumulated outstanding deed meritorious or rehabilitation
991 credit ~~incentive gain-time~~;

992 3. As directed by an executive order granting clemency;

993 4. Upon placement in a conditional release program
994 pursuant to s. 947.1405 or a conditional medical release program
995 pursuant to s. 947.149; or

996 5. Upon the granting of control release, including
997 emergency control release, pursuant to s. 947.146.

998 **Section 29. Paragraphs (i) and (j) of subsection (3) of**
999 **section 944.801, Florida Statutes, are amended to read:**

1000 944.801 Education for state prisoners.—

1001 (3) The responsibilities of the Correctional Education
 1002 Program shall be to:

1003 (i) Ensure that every inmate who has 2 years or more
 1004 remaining to serve on his or her sentence at the time that he or
 1005 she is received at an institution and who lacks basic and
 1006 functional literacy skills as defined in s. 1004.02 attends not
 1007 fewer than 150 hours of sequential instruction in a correctional
 1008 adult basic education program. The basic and functional literacy
 1009 level of an inmate shall be determined by the average composite
 1010 test score obtained on a test approved for this purpose by the
 1011 State Board of Education.

1012 1. Upon completion of the 150 hours of instruction, the
 1013 inmate shall be retested and, if a composite test score of
 1014 functional literacy is not attained, the department is
 1015 authorized to require the inmate to remain in the instructional
 1016 program.

1017 2. Highest priority of inmate participation shall be
 1018 focused on youthful offenders and those inmates nearing release
 1019 from the correctional system.

1020 3. An inmate shall be required to attend the 150 hours of
 1021 adult basic education instruction unless such inmate:

1022 a. Is serving a life sentence or is under sentence of
 1023 death.

1024 b. Is specifically exempted for security or health
 1025 reasons.

1026 c. Is housed at a community correctional center, road
 1027 prison, work camp, or vocational center.

1028 d. Attains a functional literacy level after attendance in
 1029 fewer than 150 hours of adult basic education instruction.

1030 e. Is unable to enter such instruction because of
 1031 insufficient facilities, staff, or classroom capacity.

1032 4. The Department of Corrections shall provide classes to
 1033 accommodate those inmates assigned to correctional or public
 1034 work programs after normal working hours. The department shall
 1035 develop a plan to provide academic and vocational classes on a
 1036 more frequent basis and at times that accommodate the increasing
 1037 number of inmates with work assignments, to the extent that
 1038 resources permit.

1039 5. If an inmate attends and actively participates in the
 1040 150 hours of instruction, the Department of Corrections may
 1041 grant a one-time award of up to 6 additional days of
 1042 rehabilitation credit ~~incentive gain-time~~, which must be
 1043 credited and applied as provided by law. Active participation
 1044 means, at a minimum, that the inmate is attentive, responsive,
 1045 cooperative, and completes assigned work.

1046 (j) Recommend the award of additional rehabilitation
 1047 credit ~~incentive gain-time~~ for inmates who receive a high school
 1048 equivalency diploma or a vocational certificate.

1049 **Section 30. Subsection (15) of section 947.005, Florida**
 1050 **Statutes, is amended to read:**

1051 947.005 Definitions.—As used in this chapter, unless the
1052 context clearly indicates otherwise:

1053 (15) "Tentative release date" means the date projected for
1054 the prisoner's release from custody by virtue of gain-time and
1055 credits granted or forfeited pursuant to s. 944.275(3)(a).

1056 **Section 31.** This act shall take effect July 1, 2026.