

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 53 Inmate Reentry

SPONSOR(S): Judiciary Committee; Justice Appropriations Subcommittee; Stone; Baxley and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 1 N	Jones	Cunningham
2) Justice Appropriations Subcommittee	13 Y, 0 N, As CS	McAuliffe	Lloyd
3) Judiciary Committee	16 Y, 0 N, As CS	Jones	Havlicak

SUMMARY ANALYSIS

The Department of Corrections (DOC) reports that 87% of all inmates incarcerated in Florida will eventually be released from prison. In Fiscal Year 2012-13, 33,173 inmates were released. Florida's most recent recidivism rates show that 27.6% of inmates released will return to prison within three years.

Many inmates leaving prison and returning to society do not have a state-issued identification card (state-issued ID). The bill requires DOC, working in conjunction with the Department of Health (DOH) and Department of Highway Safety and Motor Vehicles (DHSMV), to assist Florida-born inmates in acquiring a birth certificate and a state-issued ID prior to release. To accomplish this, the bill waives the \$9 fee DOH charges for a copy of a Florida birth certificate and the \$25 fee DHSMV charges to issue or renew a state-issued ID. DHSMV must provide a replacement driver license in lieu of a state-issued ID card when an inmate has a valid state driver license which was lost, stolen or destroyed. The bill also waives DHSMV's replacement card fee if it is determined that the inmate has a valid driver license or state-issued ID. If the replacement state-issued ID card or driver license is scheduled to expire within six months, DHSMV may issue a temporary permit valid for at least six months after release.

For non-Florida born inmates, the bill directs DOC to assist inmates in completing the necessary forms or applications to obtain a social security card, driver license, or state-issued ID. The bill requires DOC to assist all inmates in applying for and obtaining a social security card.

Faith- and character-based institutions and programs have been effectively used in preparing inmates for their transition to society. The bill provides DOC with policy direction to expand its faith- and character-based institutions to serve both male and female inmates at their respective institutions. It also requires peer-to-peer programs, such as Alcoholics Anonymous and literacy instruction, to be offered at faith- and character-based institutions.

The bill has a total recurring fiscal impact of \$1,017,996 and a non-recurring expense of \$243,782. The negative fiscal impact is due to the waiver of the fee for a state-issued ID and the waiver of the charge for a certified copy of a Florida birth certificate for an estimated 21,745 (12,180 in-state inmates and 9,565 out-of-state) qualifying inmates expected to be released in Fiscal Year 2014-15. DOH requires \$109,620, and DHSMV requires \$543,625, to recoup the revenue from the fee waiver for in-state inmates. DOC would be responsible for procuring out-of-state inmates birth certificates at a cost of approximately \$143,475. There is also a non-recurring expense of \$243,782 for DHSMV to purchase of two mobile units to process state-issued IDs at prisons and \$221,276 in related recurring operating expenses. See fiscal section.

The bill provides a recurring appropriation of \$1,017,996 and a non-recurring appropriation of \$243,782.

The bill takes effect on July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Department of Corrections (DOC) reports that 87% of all inmates incarcerated in Florida will eventually be released from prison.¹ In Fiscal Year 2012-13, DOC released 33,137 inmates.² Florida's most recent recidivism rates show that 27.6% of inmates released will return to prison within three years.³ Inmate reentry efforts are designed to reduce recidivism rates, which in turn mean fewer new crime victims and a lower cost to DOC. "A one percent reduction in recidivism equates to a cost avoidance of nearly \$19 million over five years."⁴

State-Issued ID Cards for Prisoners

The Real ID Act of 2005⁵ (Act) took effect on May 11, 2008.⁶ The Act is an extensive federal law that addresses a number of issues ranging from state-issued identification cards (state-issued ID) to asylum provisions. Title II of the Act creates national standards for issuing driver licenses and identification cards, as well as detailed specifications for verifying the identity of those who apply for state-issued ID.⁷ The federal Department of Homeland Security is vested with the authority to govern these requirements and determine which states are in compliance with the Act.⁸

In order for a state-issued ID to be compliant with the Act, applicants must present a number of identifying documents when applying.⁹ Specifically, the applicant's documentation must include a photo identity document, or a non-photo identity document that includes the applicant's full name and date of birth, as well as independent documentation of the applicant's date of birth, social security number, and principal residence.¹⁰ Once the Act is fully implemented on a national level, an individual must have a photo ID issued in compliance with the Act in order to prove identity for any federal purpose, including boarding airplanes and accessing federal buildings.¹¹

According to the Florida Department of Highway Safety and Motor Vehicles (DHSMV), a U.S. citizen must provide one piece of primary identification, proof of the individual's social security number, and two documents proving residence in order to acquire a state-issued ID.¹² Primary identification can be an original U.S. birth certificate, valid U.S. Passport, consular report of birth abroad, certificate of naturalization, or other similar listed documents.¹³ Proof of social security number can be satisfied with a U.S. social security card, tax forms, paycheck stubs, or other similar documents.¹⁴ Proof of residence can include deeds, utility bills, a Certification of Address Form from a homeless shelter or halfway house, or other similar documents.¹⁵ DHSMV charges a \$25 fee for issuing or renewing a state-issued ID.¹⁶

¹ See *Recidivism Reduction Strategic Plan*. Fiscal Year 2009-2014. Department of Corrections. <http://www.dc.state.fl.us/orginfo/FinalRecidivismReductionPlan.pdf> (last visited March 5, 2014).

² See *Quick Facts About the Florida Department of Corrections*. Revised September 2013. <http://www.dc.state.fl.us/oth/Quickfacts.html> (last visited March 5, 2014).

³ *Id.* These numbers are for inmates released in 2008.

⁴ Press Release, Florida Department of Corrections (February 4, 2013) <http://www.dc.state.fl.us/secretary/press/2013/02-04-Recidivism.html> (last visited March 5, 2014).

⁵ Real ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (2005).

⁶ 12 Mass. Prac. Series, Motor Vehicle Law and Practice, s. 21:2 (4th ed.).

⁷ Real ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (2005).

⁸ 1 IMMIGRATION LAW SERVICE 2d s. 1:88 (2013).

⁹ Section 202(c), 119 Stat. at 312-14.

¹⁰ *Id.* at 312-13.

¹¹ 1 IMMIGRATION LAW SERVICE 2d s. 1:88 (2013).

¹² *Florida Driver License Identification Requirements*, Florida Department of Motor Vehicles, <http://www.dmvflorida.org/drivers-license-identification.shtml> (last visited March 5, 2014).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 322.21(1)(f), F.S.

Currently, a birth certificate is an essential part of acquiring state-issued ID for a Florida-born applicant.¹⁷ A Floridian may request a copy of his or her birth certificate from the Department of Health (DOH) after paying a \$9 fee, providing valid photo identification, and submitting a written request.¹⁸ Florida law also permits any Florida or Federal agency to acquire a copy of a birth certificate upon request and payment of the \$9 fee.¹⁹ There is no statutory fee waiver for Florida prisoners applying for a copy of his or her Florida birth certificate.²⁰

In December 2009, the Office of Program Policy Analysis & Government Accountability (OPPAGA) issued a report based on their study of DOC rehabilitation efforts.²¹ The report identified the importance of an inmate acquiring an identification card upon release from prison. The report found:

Proper identification generally is required to find employment, obtain housing, or apply for public benefits that may be necessary to obtain medication or other treatment services that can help reduce inmates' risks of reoffending.²²

Similarly, the lack of a state-issued ID makes it difficult to cash paychecks or open a bank account, and increases the likelihood of an inmate failing to successfully reenter society.

Over the last few years, DOC, partnering with DHSMV and DOH, worked to get inmates' identification cards prior to release using DHSMV's mobile units that travel to the prison facilities and issue state-issued IDs to those inmates with the proper identification documents and upon payment of the \$25 fee. In 2011, DHSMV conducted 17 prison visits and issued 642 ID cards; in 2012 those numbers were 13 prison visits and 458 ID cards. Through October 22, 2013, DHSMV conducted 49 prison visits and issued 1,386 ID cards, and expect to issue over 500 more ID cards before the end of the 2013.²³

Effect of the Bill

The bill amends s. 322.051(9), F.S., to provide statutory authorization for DHSMV to waive the fee charged for issuing or renewing a state-issued ID. The bill also requires DHSMV to waive the replacement card fee if it is determined that the inmate has a valid state-issued ID card or driver license. If the replacement state-issued ID card or driver license is scheduled to expire within six months, DHSMV may issue a temporary permit valid for at least six months after the inmate's release. This waiver is for Florida-born inmates.

The bill amends s. 382.0255, F.S., to provide a similar waiver for inmates of the fee that DOH charges a person requesting a certified copy of a Florida birth certificate.

The bill amends s. 944.605, F.S., to direct DOC to work with DOH and DHSMV to provide every Florida-born inmate a certified copy of their birth certificate and a state-issued ID card upon release. DOC is required to provide DOH with a list of all Florida-born inmates, including a photo and various identifying information for each inmate. DHSMV also must provide a replacement driver license in lieu of a state-issued ID card when an inmate has a valid state driver license which was lost, stolen or destroyed.

DOC is not required to provide a birth certificate or state-issued ID to inmates who:

- DOC determines have a valid driver license or state-issued ID, except DOC must provide these inmates with a replacement driver license or state-issued ID, if necessary;
- Have an active detainer, unless the department determines that cancellation of the detainer is likely or that the incarceration for which the detainer was issued will be less than 12 months in duration;
- Are released due to an emergency release or a conditional medical release under s. 947.149, F.S.;

¹⁷ *Id.*

¹⁸ Fla. Admin. Code Ann. R. 64V-1.0131.

¹⁹ Section 382.025, F.S.

²⁰ A number of states have various fee waivers for vital records. *See* N.C. Gen. Stat. Ann. S. 130A-93.1 (2013); Md. Code Ann., Health-Gen. s. 4-217 (2013).

²¹ *See* OPPAGA, Report No. 09-44, *Department of Corrections Should Maximize Use of Best Practices in Inmate Rehabilitation Efforts*, <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=09-44> (last visited March 5, 2014).

²² *Id.* at 5.

²³ DHSMV currently has 19 prison visits planned from October through December 2013. *See* e-mail from DHSMV dated October 24, 2013 (on file with the Criminal Justice Subcommittee).

- Are not in the physical custody of the department at or within 180 days before release; and
- Are subject to sex offender residency restrictions, and who, upon release under such restrictions, do not have a qualifying address.

The bill directs DOC to assist all inmates in applying for and obtaining their social security cards. Additionally, DOC must assist all non-Florida born inmates in obtaining their social security card, driver license, or state-issued ID. The bill requires DOC to provide in its annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the number of inmates released with or without identification cards, as the factors and difficulties involved in providing such identification cards, and recommendations to improve the process.

Background: Faith- and Character-Based Institutions

The Legislature set forth policy direction for DOC in 1997 when it first addressed faith- and character-based (FCB) programming by enacting s. 944.803, F.S.²⁴ Over the years this section has been amended, most recently in 2011 when the Legislature directed DOC to focus its FCB programs more at full institutions rather than dormitories within institutions. The statute was also amended in 2011 to provide for peer-to-peer programming such as Alcoholic Anonymous within FCB institutions.²⁵

DOC currently operates FCB programs at 16 institutions and houses 6,500 inmates, including 553 beds for females.

Effect of the Bill

The bill amends s. 944.803, F.S., to give DOC policy direction to expand its FCB programs into both male and female institutions. It also requires peer-to-peer programs, such as Alcoholics Anonymous and literacy instruction, to be offered at faith- and character-based institutions.

B. SECTION DIRECTORY:

Section 1. Amends s. 322.051, F.S., relating to identification cards.

Section 2. Amends s. 322.17, F.S., relating to replacement licenses and permits.

Section 3. Amends s. 382.0255, F.S., relating to fees.

Section 4. Amends s. 944.605, F.S., relating to inmate release; notification.

Section 5. Amends s. 944.803, F.S., relating to faith- and character-based programs.

Section 6. Provides an appropriation.

Section 7. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill will have a negative fiscal impact on state revenues. This negative fiscal impact is due to the waiver of the fee for a state-issued ID and the waiver of the charge for a certified copy of a Florida birth certificate for an estimated 21,745 (12,180 in-state inmates and 9,565 out-of-state)

²⁴ See s. 19, ch. 97-78, L.O.F.

²⁵ See s. 1, ch. 2011-185, L.O.F.

qualifying inmates expected to be released in Fiscal Year 2014-15. DOH would require \$109,620, and DHSMV would require \$543,625 to recoup the revenue from the fee waiver for in-state inmates.

2. Expenditures:

This bill does have an anticipated increase in DOC, DOH and DHSMV's workload. DOH and DHSMV would be required to process the birth certificates and state-issued ID cards (see Revenues above). DOC would be responsible for procuring out-of-state inmates birth certificates at a cost of approximately \$143,475.

In order for DHSMV to process the increase in state-issued IDs at the prisons they have requested the purchase of two mobile units (FLOW mobiles) at a nonrecurring cost of \$243,782 and \$221,276 in related recurring operating expenses.

The bill provides a recurring appropriation of \$1,017,996 and a non-recurring appropriation of \$243,782.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The implementation and administration of the reentry program may require DOC to promulgate rules. The bill provides DOC with adequate rulemaking authority to do so.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 3, 2014, the Judiciary Committee adopted one amendment that:

- Clarifies that inmates may receive a replacement driver license in lieu of a state-issued ID card when an inmate has a valid state driver license which was lost, stolen, or destroyed; and
- Provides if the replacement state-issued ID card or driver license is scheduled to expire within six months, DHSMV may issue a temporary permit valid for at least six months after the inmate's release.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.