

FINAL BILL REPORT

SSB 6400

C 104 L 08

Synopsis as Enacted

Brief Description: Establishing programs for the moral guidance of incarcerated persons.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senator Carrell).

Senate Committee on Human Services & Corrections
House Committee on Human Services

Background: In 2007 the Legislature passed ESSB 6157 (C 483 L 07) and dedicated over \$30 million to programs designed to prepare offenders for reentry such as basic education, substance abuse treatment, and job training. In addition to traditional reform solutions, some states have begun implementing faith-based models, as well as secular programs that emphasize moral development and character building.

In 2003 Florida opened a state-operated correctional institution dedicated exclusively to a faith- and character-based approach to rehabilitation. The Urban Institute (Institute) has conducted an outcome analysis of Florida's program. While the Institute concludes that the program appears to have a positive impact on recidivism, they acknowledge that enough time has not passed to provide adequate results for review and that a self-selection bias is inherent in the results.

The courts have also reviewed the constitutionality of these programs at some length, with the most recent decision coming from the 8th Circuit Court of Appeals. In order to meet constitutional requirements for the separation of church and state, courts have held that the program must meet three objectives:

- 1) The program must be faith-neutral. That is, the program should be geared to a wide variety of faiths and include secular programs as well.
- 2) Inmate participation must be entirely voluntary.
- 3) Direct government funding may not be used for religious activities and the program must have adequate safeguards against the diversion of public funds to religious activities.

The Department of Corrections (DOC) currently appoints chaplains for correctional institutions around the state. Institutional chaplains are responsible for conducting religious services, coordinating religious activities, and giving religious and moral instruction to inmates. In addition to institutional chaplains, DOC employs three Native American Program Specialists who attend to the spiritual needs of Native American inmates. DOC also utilizes contract chaplains on a part-time basis to minister to inmates of their own faiths/denominations.

When a lawsuit is brought against any state official, employee, volunteer, or foster parent arising from the good faith performance of the person's duties, the person may request the

Attorney General (AG) to defend the action at the expense of the state. If the AG finds that the person was acting in good faith, the request must be granted. If the court finds that the person was acting within the scope of his or her official duties, any judgment against the person may only be collected against the state and not against the individual property of the person. Chaplains employed by contract with DOC do not qualify as a state official, employee, or volunteer and therefore may not request that the AG defend them in a lawsuit.

Summary: Moral and Character Building Residential Program. DOC must establish an oversight committee to develop an interagency plan to provide voluntary, nondenominational moral and character-building residential services and supports for offenders incarcerated in prison.

The plan must include:

- identification of existing state and community-based programs for building moral character;
- identification of methods to improve collaboration for existing programs;
- recommendations for new services or programs;
- identification of evidence-based practices and areas for research to support the long-term provision of moral and character building services and programs;
- a plan for offering both nondenominational and secular programming; and
- a system to prevent the diversion of public funds to religious activities.

Committee membership is prescribed. The committee must seek input from the public, including faith-based communities, state institutions for higher education, and the business community. The plan must be developed by June 30, 2010, with an interim report due to the appropriate committees of the Legislature by January 1, 2009.

DOC Chaplains. The Secretary of DOC must appoint institutional chaplains for its institutions. Where volunteers are not available, DOC may employ contract chaplains to meet the religious needs of inmates.

Institutional chaplains will act as religious program coordinators for all faith groups represented within the DOC. Institutional or contracted chaplains must have qualifications consistent with community standards of their given faith group and are not required to violate the tenets of their faith when acting in an ecclesiastical role.

Whether a chaplain serves by contract, employment, or is a volunteer, DOC may not compel a chaplain to provide personal liability insurance as a condition of employment and the chaplain may request the AG to authorize the defense of any proceeding for damages instituted against the chaplain.

Votes on Final Passage:

Senate	47	1	
House	95	1	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 12, 2008