

1                   A bill to be entitled  
2           An act relating to inmate reentry; defining the terms  
3           "department" and "nonviolent offender"; directing the  
4           Department of Corrections to develop and administer a  
5           reentry program for nonviolent offenders which is  
6           intended to divert nonviolent offenders from long  
7           periods of incarceration; requiring that the program  
8           include intensive substance abuse treatment and  
9           rehabilitative programming; providing for the minimum  
10          length of service in the program; providing that any  
11          portion of a sentence before placement in the program  
12          does not count as progress toward program completion;  
13          specifying eligibility criteria for a nonviolent  
14          offender to be placed into the reentry program;  
15          directing the court to screen and select eligible  
16          offenders for the program based on specified  
17          considerations; directing the department to notify the  
18          nonviolent offender's sentencing court to obtain  
19          approval before the nonviolent offender is placed into  
20          the reentry program; requiring the department to  
21          notify the state attorney; authorizing the state  
22          attorney to file objections to placing the offender  
23          into the reentry program within a specified period;  
24          requiring the sentencing court to notify the  
25          department of the court's decision to approve or  
26          disapprove the requested placement within a specified  
27          period; providing that failure of the court to timely  
28          notify the department of the court's decision

29 | constitutes disapproval of the requested placement;  
30 | requiring the nonviolent offender to undergo an  
31 | education assessment and a full substance abuse  
32 | assessment if admitted into the reentry program;  
33 | requiring the offender to be enrolled in an adult  
34 | education program in specified circumstances;  
35 | requiring that assessments of vocational skills and  
36 | future career education be provided to the offender;  
37 | requiring that certain reevaluation be made  
38 | periodically; providing that the nonviolent offender  
39 | is subject to the disciplinary rules of the  
40 | department; specifying the reasons for which the  
41 | offender may be terminated from the reentry program;  
42 | requiring that the department submit a report to the  
43 | sentencing court at least 30 days before the  
44 | nonviolent offender is scheduled to complete the  
45 | reentry program; setting forth the issues to be  
46 | addressed in the report; providing a court may  
47 | schedule a hearing to consider any modifications to an  
48 | imposed sentence; requiring the sentencing court to  
49 | issue an order modifying the sentence imposed and  
50 | placing the nonviolent offender on drug offender  
51 | probation if the nonviolent offender's performance is  
52 | satisfactory; authorizing the court to revoke  
53 | probation and impose the original sentence in  
54 | specified circumstances; authorizing the court to  
55 | require the offender to complete a postadjudicatory  
56 | drug court program in specified circumstances;

57 | directing the department to implement the reentry  
58 | program using available resources; requiring the  
59 | department to submit an annual report to the Governor  
60 | and Legislature detailing the extent of implementation  
61 | of the reentry program, specifying information to be  
62 | provided and outlining future goals and  
63 | recommendations; authorizing the department to enter  
64 | into contracts with qualified individuals, agencies,  
65 | or corporations for services for the reentry program;  
66 | authorizing the department to impose administrative or  
67 | protective confinement as necessary; authorizing the  
68 | department to establish a system of incentives within  
69 | the reentry program which the department may use to  
70 | promote participation in rehabilitative programs and  
71 | the orderly operation of institutions and facilities;  
72 | providing that the section does not create a right to  
73 | placement in the reentry program or any right to  
74 | placement or early release under supervision of any  
75 | type; providing that the section does not create a  
76 | cause of action related to the program; providing that  
77 | specified provisions are not severable; directing the  
78 | department to develop a system for tracking  
79 | recidivism, including, but not limited to, rearrests  
80 | and recommitment of nonviolent offenders who  
81 | successfully complete the reentry program, and to  
82 | report on recidivism in its annual report of the  
83 | program; directing the department to adopt rules;  
84 | providing an effective date.

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

Section 1. Nonviolent offender reentry program.—

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

(a) "Department" means the Department of Corrections.

(b) "Nonviolent offender" means an offender:

1. Whose primary offense is a felony of the third degree;

2. Who has never been convicted of a forcible felony as defined in s. 776.08, Florida Statutes;

3. Who has never been convicted of an offense listed in s. 775.082(9)(a)1.r., Florida Statutes, without regard to prior incarceration or release;

4. Who has never been convicted of an offense described in chapter 847, Florida Statutes, involving a minor or a depiction of a minor;

5. Who has never been convicted of an offense described in chapter 827, Florida Statutes;

6. Who has never been convicted of any offense described in s. 784.07, s. 784.074, s. 784.075, s. 784.076, s. 784.08, s. 784.083, or s. 784.085, Florida Statutes;

7. Who has never been convicted of any offense involving the possession or use of a firearm;

8. Who has never been convicted of a capital felony or a felony of the first or second degree;

9. Who has never been convicted of any offense that requires a person to register as a sexual offender pursuant to s. 943.0435, Florida Statutes; and

113 10. Who is not the subject of a domestic violence  
114 injunction currently in force.

115 (2) (a) The department shall develop and administer a  
116 reentry program for nonviolent offenders. The reentry program  
117 must include prison-based substance abuse treatment, general  
118 education development and adult basic education courses,  
119 vocational training, training in decisionmaking and personal  
120 development, and other rehabilitation programs.

121 (b) The reentry program is intended to divert nonviolent  
122 offenders from long periods of incarceration when a reduced  
123 period of incarceration supplemented by participation in  
124 intensive substance abuse treatment and rehabilitative  
125 programming could produce the same deterrent effect, protect the  
126 public, rehabilitate the offender, and reduce recidivism.

127 (c) The nonviolent offender shall serve at least 6 months  
128 in the reentry program. The offender may not count any portion  
129 of his or her sentence served before placement in the reentry  
130 program as progress toward program completion.

131 (d) A reentry program may be operated in a secure area in  
132 or adjacent to an adult institution.

133 (3) The department shall screen offenders committed to the  
134 department for eligibility criteria to participate in the  
135 reentry program. In order to be eligible, an offender must be a  
136 nonviolent offender, must have served at least one-half of his  
137 or her original sentence, and must have been identified as  
138 having a need for substance abuse treatment.

139 (4) The department shall select eligible offenders for the  
140 reentry program. When selecting participants for the reentry

141 program, the department shall be guided in its selection by its  
142 evaluation of the following considerations:

143 (a) The offender's history of disciplinary reports.

144 (b) The offender's criminal history, with particular  
145 scrutiny of any charges for offenses listed in paragraph (1) (b).

146 (c) The severity of the offender's addiction.

147 (d) The offender's history of criminal behavior related to  
148 substance abuse.

149 (e) Whether the offender has participated or requested to  
150 participate in any General Educational Development or other  
151 educational, technical, work, vocational, or self-rehabilitation  
152 program.

153 (f) The results of any risk assessment of the offender.

154 (g) The outcome of all past participation of the offender  
155 in substance abuse treatment programs.

156 (h) The possible rehabilitative benefits that substance  
157 abuse treatment, educational programming, vocational training,  
158 and other rehabilitative programming might have on the offender.

159 (i) The likelihood that participation in the program will  
160 produce the same deterrent effect, protect the public, save  
161 taxpayer dollars, and prevent or delay recidivism to an equal or  
162 greater extent than completion of the sentence previously  
163 imposed.

164 (5) (a) If an offender volunteers to participate in the  
165 reentry program, meets the eligibility criteria, is selected by  
166 the department based on the considerations in subsection (4),  
167 and space is available in the reentry program, the department  
168 may request the sentencing court to approve the offender's

169 participation in the reentry program. The request shall be made  
170 in writing and shall include a brief summation of the  
171 department's evaluation under subsection (4) and a recital of  
172 the documents or other information upon which the evaluation is  
173 based. All documents may be delivered to the sentencing court  
174 electronically.

175 (b)1. The department shall notify the state attorney that  
176 the offender is being considered for placement in the reentry  
177 program. The notice must include a copy of all documents  
178 provided with the request to the court. The notice and all  
179 documents may be delivered to the state attorney electronically  
180 and may take the form of a copy of an electronic delivery to the  
181 sentencing court.

182 2. The notice must also state that the state attorney may  
183 notify the sentencing court in writing of any objection the  
184 state attorney might have if the nonviolent offender is placed  
185 in the reentry program. The state attorney must notify the  
186 sentencing court of his or her objections within 15 days after  
187 receiving the notice. Whether or not an objection is raised, the  
188 state attorney may provide to the sentencing court any  
189 information supplemental or contrary to the information provided  
190 by the department that may assist the court in its  
191 determination.

192 (c) When approving a nonviolent offender for participation  
193 in the reentry program, the sentencing court may consider any  
194 facts the court considers relevant, including, but not limited  
195 to, the criteria listed in subsection (4); the original  
196 sentencing report and any evidence admitted in a previous

197 sentencing proceeding; the offender's record of arrests without  
 198 conviction for crimes; any other evidence of allegations of  
 199 unlawful conduct or the use of violence by the offender; the  
 200 offender's family ties, length of residence in the community,  
 201 employment history, and mental condition; the likelihood that  
 202 participation in the program will produce the same deterrent  
 203 effect, rehabilitate the offender, and prevent or delay  
 204 recidivism to an equal or greater extent than completion of the  
 205 sentence previously imposed; and the likelihood that the  
 206 offender will engage again in a criminal course of conduct.

207 (d) The sentencing court shall notify the department in  
 208 writing of the court's decision to approve or disapprove the  
 209 requested placement of the nonviolent offender no later than 30  
 210 days after the court receives the department's request to place  
 211 the offender in the reentry program. If the court approves, the  
 212 notification shall list the factors upon which the court relied  
 213 in approving the placement. Failure to notify the department of  
 214 the court's decision within the 30-day period constitutes  
 215 disapproval to place the offender into the reentry program.

216 (6) After the nonviolent offender is admitted into the  
 217 reentry program, he or she shall undergo a full substance abuse  
 218 assessment to determine his or her substance abuse treatment  
 219 needs. The offender shall also have an educational assessment,  
 220 which shall be accomplished using the Test of Adult Basic  
 221 Education or any other testing instrument approved by the  
 222 Department of Education. Each offender who has not obtained a  
 223 high school diploma shall be enrolled in an adult education  
 224 program designed to aid the offender in improving his or her



225 academic skills and earn a high school diploma. Further  
 226 assessments of the offender's vocational skills and future  
 227 career education shall be provided to the offender as needed. A  
 228 periodic reevaluation shall be made in order to assess the  
 229 progress of each offender.

230 (7) (a) If a nonviolent offender in the reentry program  
 231 becomes unmanageable, the department may revoke the offender's  
 232 gain-time and place the offender in disciplinary confinement in  
 233 accordance with department rule. Except as provided in paragraph  
 234 (b), the offender shall be readmitted to the reentry program  
 235 after completing the ordered discipline. Any period of time  
 236 during which the offender is unable to participate in the  
 237 reentry program shall be excluded from the specified time  
 238 requirements in the reentry program.

239 (b) The department may terminate an offender from the  
 240 reentry program if:

241 1. The offender commits or threatens to commit a violent  
 242 act;

243 2. The department determines that the offender is unable  
 244 to participate in the reentry program due to the offender's  
 245 medical condition;

246 3. The offender's sentence is modified or expires;

247 4. The department reassigns the offender's classification  
 248 status; or

249 5. The department determines that removing the offender  
 250 from the reentry program is in the best interest of the offender  
 251 or the security of the institution.

252 (8) (a) The department shall submit a report to the

253 sentencing court at least 30 days before the nonviolent offender  
254 is scheduled to complete the reentry program. The report must  
255 describe the offender's performance in the reentry program and  
256 certify whether the performance is satisfactory. The court may  
257 schedule a hearing to consider any modification to the imposed  
258 sentence. Notwithstanding the eligibility criteria contained in  
259 s. 948.20, Florida Statutes, if the offender's performance is  
260 satisfactory to the department and the court, the court shall  
261 issue an order modifying the sentence imposed and placing the  
262 offender on drug offender probation, as described in s.  
263 948.20(2), Florida Statutes, subject to the department's  
264 certification of the offender's successful completion of the  
265 remainder of the reentry program. The term of drug offender  
266 probation must not be less than the remainder of time that the  
267 offender would have served in prison, but for participating in  
268 the program. A condition of drug offender probation may include  
269 placement in a community residential or nonresidential licensed  
270 substance abuse treatment facility under the jurisdiction of the  
271 department or the Department of Children and Family Services or  
272 any public or private entity providing such services. The order  
273 shall include findings that the offender's performance is  
274 satisfactory, that the requirements for resentencing under this  
275 section are satisfied, and that the public safety will not be  
276 compromised. If the nonviolent offender violates the conditions  
277 of drug offender probation, the court may revoke probation and  
278 impose any sentence that it might have originally imposed. No  
279 offender may be released from the custody of the department  
280 under this section except pursuant to a judicial order modifying

281 his or her sentence.

282 (b) If an offender being released pursuant to paragraph  
283 (a) intends to reside in a county that has established a  
284 postadjudicatory drug court program as described in s. 397.334,  
285 Florida Statutes, the sentencing court may require the offender  
286 to successfully complete the postadjudicatory drug court program  
287 as a condition of drug offender probation. The original  
288 sentencing court shall relinquish jurisdiction of the offender's  
289 case to the postadjudicatory drug court program until the  
290 offender is no longer active in the program, the case is  
291 returned to the sentencing court due to the offender's  
292 termination from the program for failure to comply with the  
293 terms thereof, or the offender's sentence is completed. If  
294 transferred to a postadjudicatory drug court program, the  
295 offender shall comply with all conditions and orders of the  
296 program.

297 (9) The department shall implement the reentry program to  
298 the fullest extent feasible within available resources.

299 (10) The department shall submit an annual report to the  
300 Governor, the President of the Senate, and the Speaker of the  
301 House of Representatives detailing the extent of implementation  
302 of the reentry program, the number of participants selected,  
303 approved, and who have successfully completed the program, a  
304 reasonable estimate or description of the additional public  
305 costs incurred and any public funds saved with respect to each  
306 participant, a brief description of each sentence modification,  
307 and a brief description of the subsequent criminal history, if  
308 any, of each participant following any modification of sentence

309 under this section. The report shall also outline future goals  
310 and any recommendation the department has for future legislative  
311 action.

312 (11) The department may enter into performance-based  
313 contracts with qualified individuals, agencies, or corporations  
314 for the provision of any or all of the services for the reentry  
315 program provided that no offender may be released from the  
316 custody of the department under this section except pursuant to  
317 a judicial order modifying a sentence.

318 (12) A nonviolent offender in the reentry program is  
319 subject to rules of conduct established by the department and  
320 may have sanctions imposed, including loss of privileges,  
321 restrictions, disciplinary confinement, alteration of release  
322 plans, or other program modifications in keeping with the nature  
323 and gravity of the program violation. Administrative or  
324 protective confinement, as necessary, may be imposed.

325 (13) This section does not create or confer any right to  
326 any inmate to placement in the reentry program or any right to  
327 placement or early release under supervision of any type. No  
328 inmate may have a cause of action under this section against the  
329 department, a court, or the state attorney related to the  
330 reentry program. Nothing in this subsection is severable from  
331 the remaining provisions of this section. If this subsection is  
332 determined by any state or federal court to be not fully  
333 enforceable, this section shall stand repealed in its entirety.

334 (14) The department may establish a system of incentives  
335 within the reentry program which the department may use to  
336 promote participation in rehabilitative programs and the orderly

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337 operation of institutions and facilities.

338 (15) The department shall develop a system for tracking  
339 recidivism, including, but not limited to, rearrests and  
340 recommitment of nonviolent offenders who successfully complete  
341 the reentry program, and shall report the recidivism rate in its  
342 annual report of the program.

343 (16) The department shall adopt rules pursuant to ss.  
344 120.536(1) and 120.54, Florida Statutes, as are necessary to  
345 administer the reentry program.

346 Section 2. This act shall take effect October 1, 2012.