

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Bogdanoff offered the following:

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3 **Amendment (with title amendment)**

4 Between lines 239 and 240, insert:

5 Section 6. Section 921.1875, Florida Statutes, is created
6 to read:

7 921.1875 Split sentence conditioned upon satisfaction of
8 substance abuse reentry program.-

9 (1) DEPARTMENT OF CORRECTIONS TO DEVELOP PROGRAM.-The
10 Department of Corrections shall develop and implement a
11 substance abuse reentry program for inmates.

12 (a) The substance abuse reentry program shall provide a
13 mechanism by which an eligible, nonviolent offender who has
14 received a conditional split sentence and for whom the substance
15 abuse reentry program has been ordered as part of the sentence

Amendment No.

16 may be transferred into the community during the last year of
17 his or her sentence.

18 (b) The substance abuse reentry program must consist of
19 two parts:

20 1. A prison-based treatment reentry program for substance
21 abuse disorders for a minimum of 90 days.

22 2. A community-based substance abuse aftercare treatment
23 program and reentry program.

24 (c) The prison-based component may be operated in a secure
25 area in or adjacent to an adult institution, a community
26 residential center, or a work release center.

27 (2) ELIGIBILITY.—There is no right to participate in the
28 substance abuse reentry program. Offenders in the substance
29 abuse reentry program are subject to the same rules of conduct
30 as are other offenders. An offender is eligible for placement in
31 the substance abuse reentry program if all of the following
32 conditions are met:

33 (a) The offender is a nonviolent felony offender in need
34 of and amenable to substance abuse treatment. As used in this
35 paragraph, the term "nonviolent felony" means a third degree
36 felony violation under chapter 810 or any other felony offense
37 that is not a forcible felony as defined in s. 776.08.

38 (b) Whether related to the present conviction or a
39 previous conviction, the inmate has not been convicted of or
40 pled guilty or nolo contendere to:

41 1. A capital, life, or first degree felony;

42 2. A sexual offense listed in s. 943.0435(1)(a)1.a.(I);

426071

Approved For Filing: 4/13/2010 3:47:04 PM

Amendment No.

43 3. A forcible felony offense that is specifically set
44 forth in s. 776.08, except burglary under s. 810.02(4);

45 4. An offense that was reclassified pursuant to s. 784.07
46 or s. 775.087;

47 5. A second or third degree felony offense listed in s.
48 775.084(1)(c)1.;

49 6. A violation of s. 827.03(1) or (2);

50 7. A violation of s. 825.102(1) or (2);

51 8. A violation of s. 843.01; or

52 9. Any offense in another jurisdiction that would be an
53 offense described in subparagraphs 1.-8. if that offense had
54 been committed in this state.

55 (c) The offender otherwise meets the criteria for
56 placement as determined by the department.

57 (3) JUDICIAL ROLE.—

58 (a) The sentencing court may, at its discretion and
59 notwithstanding other sentencing laws, order the offender who
60 meets the requirements of subsection (2) to participate in the
61 substance abuse reentry program at the time of sentencing by
62 imposing a conditional split sentence. The court shall consider
63 any statement of the victim in making its decision.

64 (b) A conditional split sentence ordered pursuant to this
65 section shall consist of a term of imprisonment, the last year
66 of which is suspended and during which year the offender is
67 placed on drug offender probation with specified terms and
68 conditions. The offender may not be placed on drug offender
69 probation unless, with the approval of the department, he or she
70 participates in and completes the prison-based treatment reentry
426071

Approved For Filing: 4/13/2010 3:47:04 PM

Amendment No.

71 program. The offender must serve at least 85 percent of the
72 incarceration portion of the split sentence before being
73 released to supervision. If the offender does not complete the
74 prison-based treatment reentry program, the last year of the
75 sentence remains part of the term of imprisonment to be served
76 while incarcerated. The offender must serve at least 85 percent
77 of the total term of imprisonment.

78 (c) The probation order, as part of the original
79 conditional split sentence, shall include:

80 1. The standard conditions of probation.

81 2. Drug offender probation conditions ordered by the
82 court.

83 3. Any other special conditions ordered by the court.

84 (d) The probation order must also authorize the transfer
85 of the case to the drug court located in the county of the
86 sentencing court, if a drug court exists, upon the offender's
87 release to supervision. If the drug court accepts the case in a
88 written order, the drug court judge shall be deemed to be the
89 sentencing judge for purposes of ensuring compliance with the
90 probation order, revocation of the probation order, and
91 resentencing the offender. If no drug court exists in the
92 county, or if the drug court does not accept the case, the
93 department shall supervise the offender in accordance with the
94 order of probation.

95 (e) If the offender violates the terms and conditions of
96 the probation order while under supervision, the court may
97 revoke the probation order and return the offender to prison to
98 serve the suspended year of his or her sentence with credit only

426071

Approved For Filing: 4/13/2010 3:47:04 PM

Amendment No.

99 for any time incarcerated between the date of release to
100 supervision and the date of resentencing. If the offender is
101 returned to prison, the gain-time earned prior to release to
102 supervision is deemed forfeited pursuant to s. 944.28(1), and
103 the offender shall serve that time as well. This paragraph does
104 not deprive the offender of the right to earn additional gain-
105 time, as provided by law, from the date of the offender's return
106 to prison.

107 (4) DEPARTMENT ROLE.-

108 (a) The department shall implement the substance abuse
109 reentry program to the fullest extent feasible within the terms
110 of this section and available resources.

111 (b) The department shall establish the criteria for
112 offenders to participate in the substance abuse reentry program.

113 (c) If an offender receives a conditional split sentence
114 under subsection (3), the department shall:

115 1. Determine the offender's eligibility to participate in
116 the substance abuse reentry program. The department shall
117 consider the offender's criminal history, need for substance
118 abuse treatment, and general rehabilitative interests and the
119 potential risk that the offender presents to the public. The
120 department may also consider the operational needs of the
121 department.

122 2. Place the offender in a prison-based treatment reentry
123 program for substance abuse disorders for a minimum of 90 days.

124 3. Evaluate the offender's needs for community placement
125 and develop a postrelease treatment plan that includes substance

426071

Approved For Filing: 4/13/2010 3:47:04 PM

Amendment No.

126 abuse aftercare services and reentry services, in accordance
127 with the terms and conditions of the probation order.

128 4. Determine whether the offender has successfully
129 completed the prison-based treatment reentry program.

130 5. If the offender has successfully completed the prison-
131 based treatment reentry program, release the offender to serve
132 the last year of the conditional split sentence on probation, in
133 accordance with the terms and conditions of the probation order.

134 (5) CONTRACTORS.—The department may develop and enter into
135 performance-based contracts with qualified individuals,
136 agencies, or corporations to supply any or all services provided
137 in the substance abuse reentry program. Notwithstanding any
138 provision of chapter 287 to the contrary, any contract related
139 to such services shall be procured by competitive solicitation.
140 The department may establish a system of incentives in order to
141 promote participation by private-sector employers in the
142 substance abuse reentry programs and the orderly operation of
143 institutions and facilities.

144 (6) REPORTING.—

145 (a) The department shall develop a computerized system to
146 track recidivism and recommitment of offenders who have
147 participated in the substance abuse reentry program. Beginning
148 October 1, 2013, and on October 1 of each year thereafter, the
149 department shall submit an annual report of the results of the
150 collected data to the Governor, the President of the Senate, and
151 the Speaker of the House of Representatives.

152 (b) The Office of Program Policy Analysis and Government
153 Accountability shall review the substance abuse reentry program

426071

Approved For Filing: 4/13/2010 3:47:04 PM

Amendment No.

154 and report its findings to the President of the Senate and the
155 Speaker of the House of Representatives before the commencement
156 of the 2013 regular legislative session.

157 (7) RULEMAKING.—The department may adopt rules pursuant to
158 ss. 120.536(1) and 120.54 to implement this section.

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161 **T I T L E A M E N D M E N T**

162 Remove line 17 and insert:

163 changes made by the act; creating s. 921.1875, F.S.;

164 requiring the Department of Corrections to develop and

165 implement a substance abuse reentry program to provide a

166 mechanism by which an eligible, nonviolent offender who has

167 received a conditional split sentence may be transferred

168 into the community through a transitional process;

169 requiring that the program consist of a prison-based

170 substance abuse treatment reentry program for substance

171 abuse disorders and a community-based substance abuse

172 aftercare treatment and reentry program; providing

173 eligibility criteria; authorizing the sentencing court to

174 sentence an eligible offender to a conditional split

175 sentence; providing for the last year of the prison

176 sentence to be suspended and for the offender to serve the

177 last year on drug offender probation; requiring the

178 offender to serve at least 85 percent of the incarceration

179 portion of the sentence; requiring an offender who does not

180 complete the prison-based treatment reentry program to

181 remain incarcerated; providing for terms and conditions of

426071

Approved For Filing: 4/13/2010 3:47:04 PM

Amendment No.

182 probation; requiring the probation order to authorize
183 transfer of the offender's case to the drug court in the
184 county where the offender is sentenced, if one exists;
185 providing for supervision by the department if no drug
186 court exists in the county, or if the drug court does not
187 accept the case; requiring a written order documenting
188 acceptance of the offender by the drug court; providing
189 that the drug court judge is deemed to be the sentencing
190 judge; providing for revocation of supervision if the
191 offender violates the terms and conditions of probation;
192 providing for an offender whose probation is revoked to
193 lose accumulated gain-time and to return to prison to
194 complete the sentence; requiring the department to
195 establish criteria for participation in the program;
196 providing the department's responsibilities, including
197 performance-based contracts to supply services to the
198 program; requiring competitive solicitation of contracts;
199 authorizing the department to establish a system of
200 incentives to promote participation by private-sector
201 employers in substance abuse reentry programs; directing
202 the department to develop a computerized system to track
203 recidivism and recommitment of offenders who have
204 participated in the program; requiring a report to the
205 Governor and Legislature; requiring a review and report by
206 the Office of Program Policy Analysis and Government
207 Accountability; authorizing rulemaking; amending s.
208 940.061, F.S.;

426071

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