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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2010	.	
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The Committee on Governmental Oversight and Accountability
(Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 921.1875, Florida Statutes, is created
to read:

921.1875 Split sentence conditioned upon satisfaction of
substance abuse reentry program.—

(1) DEPARTMENT OF CORRECTIONS TO DEVELOP SUBSTANCE ABUSE
REENTRY PROGRAM.—The Department of Corrections shall develop and
implement a substance abuse reentry program for inmates.



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13 (a) The substance abuse reentry program shall provide a
14 mechanism by which an eligible, nonviolent offender who has
15 received a conditional split sentence and for whom the substance
16 abuse reentry program has been ordered as part of the sentence
17 may be transferred into the community during the last year of
18 his or her sentence.

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

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

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

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

28 (2) ELIGIBILITY.—An inmate is eligible for placement in the
29 substance abuse reentry program if:

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

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

38 1. A capital, life, or first-degree felony;

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

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



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42 4. An offense which was reclassified pursuant to s. 784.07
43 or s. 775.087;

44 5. A felony offense listed in s. 775.084(1)(c)1.;

45 6. Violation of s. 827.03(1) or (2);

46 7. Violation of s. 825.102(1) or (2);

47 8. Violation of s. 843.01; or

48 9. Any offense in another jurisdiction which would be an
49 offense described in subparagraphs 1.-8. if that offense had
50 been committed in this state; and

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

53 (3) JUDICIAL ROLE IN THE SUBSTANCE ABUSE REENTRY PROGRAM.-

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

61 (b) A conditional split sentence ordered pursuant to this
62 section shall consist of a term of imprisonment, the last year
63 of which is suspended and the offender placed on drug offender
64 probation with specified terms and conditions. The offender may
65 not be placed on drug offender probation unless, with the
66 approval of the department, he or she participates in and
67 completes the in-prison treatment program. The offender must
68 serve at least 85 percent of the incarceration component of the
69 split sentence before being released to supervision. If the
70 offender does not complete the in-prison treatment program, the



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71 last year of the sentence remains part of the term of
72 imprisonment to be served while incarcerated. The offender must
73 serve at least 85 percent of the total term of imprisonment.

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

- 76 1. The standard conditions of probation;
77 2. Drug offender probation conditions ordered by the court;
78 and
79 3. Any other special conditions ordered by the court.

80 (d) The probation order must also authorize the transfer of
81 the case to the drug court located in the county of the
82 sentencing court, if a drug court exists, upon the offender
83 being released to supervision. If the drug court accepts the
84 case in a written order, the drug court judge shall be deemed to
85 be the sentencing judge for purposes of ensuring compliance with
86 the probation order, revocation of the probation order, and
87 resentencing the offender. If the county does not have a drug
88 court, or if the drug court does not accept the case, the
89 department shall supervise the offender in accordance with the
90 order of probation.

91 (e) If the offender violates the terms and conditions of
92 the probation order while under supervision, the court may
93 revoke the probation order and return the offender to prison to
94 serve the suspended 1 year of the sentence with credit only for
95 any time incarcerated between the date of release to supervision
96 and the date of resentencing. If the offender is returned to
97 prison, the gain-time earned prior to release to supervision is
98 deemed forfeited pursuant to s. 944.28(1), and the offender
99 shall serve that time as well. This subsection does not deprive



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100 the offender of the right to earn additional gain-time, as
101 provided by law, from the date of the offender's return to
102 prison.

103 (4) THE ROLE OF THE DEPARTMENT IN THE SUBSTANCE ABUSE
104 REENTRY PROGRAM.—

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

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

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

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

118 2. There is no right to participate in the substance abuse
119 reentry program. Offenders in the substance abuse reentry
120 program are subject to the same rules of conduct as are other
121 offenders.

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

124 4. Evaluate the offender's needs for community placement
125 and develop a postrelease treatment plan that includes substance
126 abuse aftercare services and reentry services, in accordance
127 with the terms and conditions of the probation order.

128 5. Determine whether the offender has successfully



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129 completed the in-prison treatment program.

130 6. If the offender has successfully completed the in-prison
131 treatment program, release the offender to serve the last year
132 of the conditional split sentence on probation, in accordance
133 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. Any contract related to
138 such services shall be procured by competitive solicitation,
139 notwithstanding any provisions of chapter 287 to the contrary.
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 inmates who have
147 participated in the substance abuse reentry program. Beginning
148 October 1, 2013, and on October 1 of each succeeding year, 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
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 legislative session.

157 (7) RULEMAKING.—The department may adopt rules pursuant to



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158 ss. 120.536(1) and 120.54 to implement the provisions of this
159 section.

160 Section 2. This act shall take effect July 1, 2010.

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162 ===== T I T L E A M E N D M E N T =====

163 And the title is amended as follows:

164 Delete everything before the enacting clause
165 and insert:

166 A bill to be entitled
167 An act relating to inmates; creating s. 921.1875,
168 F.S.; requiring that the Department of Corrections
169 develop and implement a substance abuse reentry
170 program to provide a mechanism by which an eligible,
171 nonviolent offender who has received a conditional
172 split sentence may be transferred into the community
173 through a transitional process; requiring that the
174 program consist of a prison-based treatment substance
175 abuse reentry program for substance abuse disorders
176 and a community-based substance abuse aftercare
177 treatment and reentry program; providing eligibility
178 criteria for the substance abuse reentry program;
179 permitting the sentencing judge to sentence an
180 offender who meets the eligibility requirements to a
181 conditional split sentence; providing for the last
182 year of the prison sentence to be suspended and for
183 the offender to serve the last year on drug offender
184 probation; requiring that the offender must serve at
185 least 85 percent of the incarcerative portion of the
186 sentence; providing for terms and conditions of



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187 probation; providing that an offender who does not
188 complete the in-prison treatment program to remain
189 incarcerated; requiring the probation order to
190 authorize transfer of the offender's case to the drug
191 court in the county where the offender is sentenced,
192 if there is a drug court located there; requiring a
193 written order documenting acceptance of the offender
194 by the drug court; providing that the drug court judge
195 is deemed to be the sentencing judge; providing for
196 revocation of supervision if the offender violates the
197 terms and conditions of probation; providing for an
198 offender whose probation is revoked to lose
199 accumulated gain time and to return to prison to
200 complete the sentence; requiring the department to
201 establish criteria for participation in the substance
202 abuse reentry program; providing the department's
203 responsibilities; directing the department to prepare
204 a postrelease treatment plan; authorizing the
205 department to develop performance-based contracts to
206 supply services to the substance abuse reentry
207 program; permitting the department to establish a
208 system of incentives to promote participation by
209 private-sector employers in substance abuse reentry
210 programs; directing the department to track recidivism
211 and recommitment of inmates who have participated in
212 the substance abuse reentry program; requiring a
213 report to the Governor and Legislature; requiring a
214 review and report by the Office of Program Policy
215 Analysis and Government Accountability; authorizing



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rulemaking; providing an effective date.