

By the Committees on Governmental Oversight and Accountability;
and Criminal Justice; and Senator Rich

585-04928-10

20102714c2

1 A bill to be entitled
2 An act relating to inmates; creating s. 921.1875,
3 F.S.; requiring that the Department of Corrections
4 develop and implement a substance abuse reentry
5 program to provide a mechanism by which an eligible,
6 nonviolent offender who has received a conditional
7 split sentence may be transferred into the community
8 through a transitional process; requiring that the
9 program consist of a prison-based treatment substance
10 abuse reentry program for substance abuse disorders
11 and a community-based substance abuse aftercare
12 treatment and reentry program; providing eligibility
13 criteria for the substance abuse reentry program;
14 permitting the sentencing judge to sentence an
15 offender who meets the eligibility requirements to a
16 conditional split sentence; providing for the last
17 year of the prison sentence to be suspended and for
18 the offender to serve the last year on drug offender
19 probation; requiring that the offender must serve at
20 least 85 percent of the incarcerative portion of the
21 sentence; providing for terms and conditions of
22 probation; providing for an offender who does not
23 complete the in-prison treatment program to remain
24 incarcerated; requiring the probation order to
25 authorize transfer of the offender's case to the drug
26 court in the county where the offender is sentenced,
27 if there is a drug court located there; requiring a
28 written order documenting acceptance of the offender
29 by the drug court; providing that the drug court judge

585-04928-10

20102714c2

30 is deemed to be the sentencing judge; providing for
31 revocation of supervision if the offender violates the
32 terms and conditions of probation; providing for an
33 offender whose probation is revoked to lose
34 accumulated gain-time and to return to prison to
35 complete the sentence; requiring the department to
36 establish criteria for participation in the substance
37 abuse reentry program; providing the department's
38 responsibilities; directing the department to prepare
39 a postrelease treatment plan; authorizing the
40 department to develop performance-based contracts to
41 supply services to the substance abuse reentry
42 program; permitting the department to establish a
43 system of incentives to promote participation by
44 private-sector employers in substance abuse reentry
45 programs; directing the department to track recidivism
46 and recommitment of inmates who have participated in
47 the substance abuse reentry program; requiring a
48 report to the Governor and Legislature; requiring a
49 review and report by the Office of Program Policy
50 Analysis and Government Accountability; authorizing
51 rulemaking; providing an effective date.

52
53 Be It Enacted by the Legislature of the State of Florida:

54
55 Section 1. Section 921.1875, Florida Statutes, is created
56 to read:

57 921.1875 Split sentence conditioned upon satisfaction of
58 substance abuse reentry program.

585-04928-10

20102714c2

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

62 (a) The substance abuse reentry program shall provide a
63 mechanism by which an eligible, nonviolent offender who has
64 received a conditional split sentence and for whom the substance
65 abuse reentry program has been ordered as part of the sentence
66 may be transferred into the community during the last year of
67 his or her sentence.

68 (b) The substance abuse reentry program must consist of two
69 parts:

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

72 2. A community-based substance abuse aftercare treatment
73 program and reentry program.

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

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

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

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

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

585-04928-10

20102714c2

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

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

91 4. An offense which was reclassified pursuant to s. 784.07
92 or s. 775.087;

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

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

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

96 8. Violation of s. 843.01; or

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

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

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

103 (a) The sentencing court may, at its discretion and
104 notwithstanding other sentencing laws, order the offender who
105 satisfies the offense history requirements in subsection (2) to
106 participate in the substance abuse reentry program at the time
107 of sentencing by imposing a conditional split sentence. The
108 court shall consider any statement of the victim in making its
109 decision.

110 (b) A conditional split sentence ordered pursuant to this
111 section shall consist of a term of imprisonment, the last year
112 of which is suspended and the offender placed on drug offender
113 probation with specified terms and conditions. The offender may
114 not be placed on drug offender probation unless, with the
115 approval of the department, he or she participates in and
116 completes the in-prison treatment program. The offender must

585-04928-10

20102714c2

117 serve at least 85 percent of the incarceration component of the
118 split sentence before being released to supervision. If the
119 offender does not complete the in-prison treatment program, the
120 last year of the sentence remains part of the term of
121 imprisonment to be served while incarcerated. The offender must
122 serve at least 85 percent of the total term of imprisonment.

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

125 1. The standard conditions of probation;

126 2. Drug offender probation conditions ordered by the court;

127 and

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

129 (d) The probation order must also authorize the transfer of
130 the case to the drug court located in the county of the
131 sentencing court, if a drug court exists, upon the offender
132 being released to supervision. If the drug court accepts the
133 case in a written order, the drug court judge shall be deemed to
134 be the sentencing judge for purposes of ensuring compliance with
135 the probation order, revocation of the probation order, and
136 resentencing the offender. If the county does not have a drug
137 court, or if the drug court does not accept the case, the
138 department shall supervise the offender in accordance with the
139 order of probation.

140 (e) If the offender violates the terms and conditions of
141 the probation order while under supervision, the court may
142 revoke the probation order and return the offender to prison to
143 serve the suspended 1 year of the sentence with credit only for
144 any time incarcerated between the date of release to supervision
145 and the date of resentencing. If the offender is returned to

585-04928-10

20102714c2

146 prison, the gain-time earned prior to release to supervision is
147 deemed forfeited pursuant to s. 944.28(1), and the offender
148 shall serve that time as well. This subsection does not deprive
149 the offender of the right to earn additional gain-time, as
150 provided by law, from the date of the offender's return to
151 prison.

152 (4) THE ROLE OF THE DEPARTMENT IN THE SUBSTANCE ABUSE
153 REENTRY PROGRAM.-

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

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

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

161 1. Determine the offender's eligibility to participate in
162 the substance abuse reentry program. The department shall
163 consider the inmate's criminal history, need for substance abuse
164 treatment, general rehabilitative interests, and the potential
165 risk that the offender presents to the public. The department
166 may also consider the operational needs of the department.

167 2. There is no right to participate in the substance abuse
168 reentry program. Offenders in the substance abuse reentry
169 program are subject to the same rules of conduct as are other
170 offenders.

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

173 4. Evaluate the offender's needs for community placement
174 and develop a postrelease treatment plan that includes substance

585-04928-10

20102714c2

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

177 5. Determine whether the offender has successfully
178 completed the in-prison treatment program.

179 6. If the offender has successfully completed the in-prison
180 treatment program, release the offender to serve the last year
181 of the conditional split sentence on probation, in accordance
182 with the terms and conditions of the probation order.

183 (5) CONTRACTORS.—The department may develop and enter into
184 performance-based contracts with qualified individuals,
185 agencies, or corporations to supply any or all services provided
186 in the substance abuse reentry program. Any contract related to
187 such services shall be procured by competitive solicitation,
188 notwithstanding any provisions of chapter 287 to the contrary.
189 The department may establish a system of incentives in order to
190 promote participation by private-sector employers in the
191 substance abuse reentry programs and the orderly operation of
192 institutions and facilities.

193 (6) REPORTING.—

194 (a) The department shall develop a computerized system to
195 track recidivism and recommitment of inmates who have
196 participated in the substance abuse reentry program. Beginning
197 October 1, 2013, and on October 1 of each succeeding year, the
198 department shall submit an annual report of the results of the
199 collected data to the Governor, the President of the Senate, and
200 the Speaker of the House of Representatives.

201 (b) The Office of Program Policy Analysis and Government
202 Accountability shall review the substance abuse reentry program
203 and report its findings to the President of the Senate and the

585-04928-10

20102714c2

204 Speaker of the House of Representatives before the commencement
205 of the 2013 legislative session.

206 (7) RULEMAKING.—The department may adopt rules pursuant to
207 ss. 120.536(1) and 120.54 to implement the provisions of this
208 section.

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