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LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

04/22/2010 04:06 PM

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Senator Joyner moved the following:

**Senate Amendment (with title amendment)**

Between lines 280 and 281  
insert:

Section 7. 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 PROGRAM.-The  
Department of Corrections shall develop and implement a  
substance abuse reentry program for inmates.

(a) The substance abuse reentry program shall provide a



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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.

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

25 (c) The prison-based 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.—There is no right to participate in the  
29 substance abuse reentry program. Offenders in the substance  
30 abuse reentry program are subject to the same rules of conduct  
31 as are other offenders. An offender is eligible for placement in  
32 the substance abuse reentry program if all of the following  
33 conditions are met:

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

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

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



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

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

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

48 5. A second or third degree felony offense listed in s.  
49 775.084(1)(c)1.;

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

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

52 8. A violation of s. 843.01; or

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

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

58 (3) JUDICIAL ROLE.—

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

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



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

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

- 81 1. The standard conditions of probation.
- 82 2. Drug offender probation conditions ordered by the court.
- 83 3. Any other special conditions ordered by the court.

84 (d) The probation order must also authorize the transfer of  
85 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  
99 for any time incarcerated between the date of release to  
100 supervision and the date of resentencing. If the offender is



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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  
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.



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

And the title is amended as follows:

Delete line 23

and insert:

to conform to changes made by the act; creating s.  
921.1875, F.S.; requiring the Department of  
Corrections to develop and implement a substance abuse  
reentry program to provide a mechanism by which an  
eligible, nonviolent offender who has received a  
conditional split sentence may be transferred into the  
community through a transitional process; requiring  
that the program consist of a prison-based substance  
abuse treatment reentry program for substance abuse  
disorders and a community-based substance abuse  
aftercare treatment and reentry program; providing  
eligibility criteria; authorizing the sentencing court  
to sentence an eligible offender to a conditional  
split sentence; providing for the last year of the  
prison sentence to be suspended and for the offender  
to serve the last year on drug offender probation;  
requiring the offender to serve at least 85 percent of  
the incarceration portion of the sentence; requiring  
an offender who does not complete the prison-based  
treatment reentry program to remain incarcerated;  
providing for terms and conditions of probation;  
requiring the probation order to authorize transfer of  
the offender's case to the drug court in the county  
where the offender is sentenced, if one exists;



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