



506976

LEGISLATIVE ACTION

Senate . House

.

.

Floor: WD/2R .

04/22/2010 04:06 PM .

.

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



506976

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;



506976

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



506976

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



506976

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.



506976

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.



506976

159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187

===== 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;



506976

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.