

1 A bill to be entitled
2 An act relating to inmate reentry; defining the terms
3 "department" and "nonviolent offender"; directing the
4 Department of Corrections to develop and administer a
5 reentry program for nonviolent offenders which is
6 intended to divert nonviolent offenders from long
7 periods of incarceration; requiring that the program
8 include intensive substance abuse treatment and
9 rehabilitative programming; providing for the minimum
10 length of service in the program; providing that any
11 portion of a sentence before placement in the program
12 does not count as progress toward program completion;
13 specifying eligibility criteria for a nonviolent
14 offender to be placed into the reentry program;
15 directing the court to screen and select eligible
16 offenders for the program based on specified
17 considerations; directing the department to notify the
18 nonviolent offender's sentencing court to obtain
19 approval before the nonviolent offender is placed into
20 the reentry program; requiring the department to
21 notify the state attorney; authorizing the state
22 attorney to file objections to placing the offender
23 into the reentry program within a specified period;
24 requiring the sentencing court to notify the
25 department of the court's decision to approve or
26 disapprove the requested placement within a specified

27 | period; providing that failure of the court to timely
28 | notify the department of the court's decision
29 | constitutes disapproval of the requested placement;
30 | requiring the nonviolent offender to undergo an
31 | education assessment and a full substance abuse
32 | assessment if admitted into the reentry program;
33 | requiring the offender to be enrolled in an adult
34 | education program in specified circumstances;
35 | requiring that assessments of vocational skills and
36 | future career education be provided to the offender;
37 | requiring that certain reevaluation be made
38 | periodically; providing that the nonviolent offender
39 | is subject to the disciplinary rules of the
40 | department; specifying the reasons for which the
41 | offender may be terminated from the reentry program;
42 | requiring that the department submit a report to the
43 | sentencing court at least 30 days before the
44 | nonviolent offender is scheduled to complete the
45 | reentry program; setting forth the issues to be
46 | addressed in the report; requiring the sentencing
47 | court to hold a hearing to consider modifying the
48 | sentence imposed and authorizing the court to place
49 | the nonviolent offender on drug offender probation if
50 | the nonviolent offender's performance is satisfactory;
51 | authorizing the court to revoke probation and impose
52 | the original sentence in specified circumstances;

53 | authorizing the court to require the offender to
54 | complete a postadjudicatory drug court program in
55 | specified circumstances; directing the department to
56 | implement the reentry program using available
57 | resources; requiring the department to submit an
58 | annual report to the Governor and Legislature
59 | detailing the extent of implementation of the reentry
60 | program, specifying information to be provided and
61 | outlining future goals and recommendations;
62 | authorizing the department to enter into contracts
63 | with qualified individuals, agencies, or corporations
64 | for services for the reentry program; authorizing the
65 | department to impose administrative or protective
66 | confinement as necessary; authorizing the department
67 | to establish a system of incentives within the reentry
68 | program which the department may use to promote
69 | participation in rehabilitative programs and the
70 | orderly operation of institutions and facilities;
71 | providing that the section does not create a right to
72 | placement in the reentry program or any right to
73 | placement or early release under supervision of any
74 | type; providing that the section does not create a
75 | cause of action related to the program; providing that
76 | specified provisions are not severable; directing the
77 | department to develop a system for tracking
78 | recidivism, including, but not limited to, rearrests

79 and recommitment of nonviolent offenders who
80 successfully complete the reentry program, and to
81 report on recidivism in its annual report of the
82 program; directing the department to adopt rules;
83 providing an effective date.
84

85 Be It Enacted by the Legislature of the State of Florida:
86

87 Section 1. Nonviolent offender reentry program.-

88 (1) As used in this section, the term:

89 (a) "Department" means the Department of Corrections.

90 (b) "Nonviolent offender" means an offender:

91 1. Whose primary offense is a felony of the third degree;

92 2. Who has never been convicted of a forcible felony as
93 defined in s. 776.08, Florida Statutes;

94 3. Who has never been convicted of an offense listed in s.
95 775.082(9)(a)1.r., Florida Statutes, without regard to prior
96 incarceration or release;

97 4. Who has never been convicted of an offense described in
98 chapter 847, Florida Statutes, involving a minor or a depiction
99 of a minor;

100 5. Who has never been convicted of an offense described in
101 chapter 827, Florida Statutes;

102 6. Who has never been convicted of any offense described
103 in s. 784.07, s. 784.074, s. 784.075, s. 784.076, s. 784.08, s.
104 784.083, or s. 784.085, Florida Statutes;

105 7. Who has never been convicted of any offense involving
106 the possession or use of a firearm;

107 8. Who has never been convicted of a capital felony or a
108 felony of the first or second degree;

109 9. Who has never been convicted of any offense that
110 requires a person to register as a sexual offender pursuant to
111 s. 943.0435, Florida Statutes; and

112 10. Who is not the subject of a domestic violence
113 injunction currently in force.

114 (2) (a) The department shall develop and administer a
115 reentry program for nonviolent offenders. The reentry program
116 must include prison-based substance abuse treatment, general
117 education development and adult basic education courses,
118 vocational training, training in decisionmaking and personal
119 development, and other rehabilitation programs.

120 (b) The reentry program is intended to divert nonviolent
121 offenders from long periods of incarceration when a reduced
122 period of incarceration supplemented by participation in
123 intensive substance abuse treatment and rehabilitative
124 programming could produce the same deterrent effect, protect the
125 public, rehabilitate the offender, and reduce recidivism.

126 (c) The nonviolent offender shall serve at least 6 months
127 in the reentry program. The offender may not count any portion
128 of his or her sentence served before placement in the reentry
129 program as progress toward program completion.

130 (d) A reentry program may be operated in a secure area in

131 or adjacent to an adult institution.

132 (3) The department shall screen offenders committed to the
133 department for eligibility criteria to participate in the
134 reentry program. In order to be eligible, an offender must be a
135 nonviolent offender, must have served at least one-half of his
136 or her original sentence, and must have been identified as
137 having a need for substance abuse treatment.

138 (4) The department shall select eligible offenders for the
139 reentry program. When selecting participants for the reentry
140 program, the department shall be guided in its selection by its
141 evaluation of the following considerations:

142 (a) The offender's history of disciplinary reports.

143 (b) The offender's criminal history, with particular
144 scrutiny of any charges for offenses listed in paragraph (1) (b).

145 (c) The severity of the offender's addiction.

146 (d) The offender's history of criminal behavior related to
147 substance abuse.

148 (e) Whether the offender has participated or requested to
149 participate in any General Educational Development or other
150 educational, technical, work, vocational, or self-rehabilitation
151 program.

152 (f) The results of any risk assessment of the offender.

153 (g) The outcome of all past participation of the offender
154 in substance abuse treatment programs.

155 (h) The possible rehabilitative benefits that substance
156 abuse treatment, educational programming, vocational training,

157 and other rehabilitative programming might have on the offender.

158 (i) The likelihood that participation in the program will
159 produce the same deterrent effect, protect the public, save
160 taxpayer dollars, and prevent or delay recidivism to an equal or
161 greater extent than completion of the sentence previously
162 imposed.

163 (5) (a) If an offender volunteers to participate in the
164 reentry program, meets the eligibility criteria, is selected by
165 the department based on the considerations in subsection (4),
166 and space is available in the reentry program, the department
167 may request the sentencing court to approve the offender's
168 participation in the reentry program. The request shall be made
169 in writing and shall include a brief summation of the
170 department's evaluation under subsection (4) and a recital of
171 the documents or other information upon which the evaluation is
172 based. All documents may be delivered to the sentencing court
173 electronically.

174 (b)1. The department shall notify the state attorney that
175 the offender is being considered for placement in the reentry
176 program. The notice must include a copy of all documents
177 provided with the request to the court. The notice and all
178 documents may be delivered to the state attorney electronically
179 and may take the form of a copy of an electronic delivery to the
180 sentencing court.

181 2. The notice must also state that the state attorney may
182 notify the sentencing court in writing of any objection the

183 state attorney might have if the nonviolent offender is placed
184 in the reentry program. The state attorney must notify the
185 sentencing court of his or her objections within 15 days after
186 receiving the notice. Whether or not an objection is raised, the
187 state attorney may provide to the sentencing court any
188 information supplemental or contrary to the information provided
189 by the department that may assist the court in its
190 determination.

191 (c) When approving a nonviolent offender for participation
192 in the reentry program, the sentencing court may consider any
193 facts the court considers relevant, including, but not limited
194 to, the criteria listed in subsection (4); the original
195 sentencing report and any evidence admitted in a previous
196 sentencing proceeding; the offender's record of arrests without
197 conviction for crimes; any other evidence of allegations of
198 unlawful conduct or the use of violence by the offender; the
199 offender's family ties, length of residence in the community,
200 employment history, and mental condition; the likelihood that
201 participation in the program will produce the same deterrent
202 effect, rehabilitate the offender, and prevent or delay
203 recidivism to an equal or greater extent than completion of the
204 sentence previously imposed; and the likelihood that the
205 offender will engage again in a criminal course of conduct.

206 (d) The sentencing court shall notify the department in
207 writing of the court's decision to approve or disapprove the
208 requested placement of the nonviolent offender no later than 30

209 days after the court receives the department's request to place
210 the offender in the reentry program. If the court approves, the
211 notification shall list the factors upon which the court relied
212 in approving the placement. Failure to notify the department of
213 the court's decision within the 30-day period constitutes
214 disapproval to place the offender into the reentry program.

215 (6) After the nonviolent offender is admitted into the
216 reentry program, he or she shall undergo a full substance abuse
217 assessment to determine his or her substance abuse treatment
218 needs. The offender shall also have an educational assessment,
219 which shall be accomplished using the Test of Adult Basic
220 Education or any other testing instrument approved by the
221 Department of Education. Each offender who has not obtained a
222 high school diploma shall be enrolled in an adult education
223 program designed to aid the offender in improving his or her
224 academic skills and earn a high school diploma. Further
225 assessments of the offender's vocational skills and future
226 career education shall be provided to the offender as needed. A
227 periodic reevaluation shall be made in order to assess the
228 progress of each offender.

229 (7) (a) If a nonviolent offender in the reentry program
230 becomes unmanageable, the department may revoke the offender's
231 gain-time and place the offender in disciplinary confinement in
232 accordance with department rule. Except as provided in paragraph
233 (b), the offender shall be readmitted to the reentry program
234 after completing the ordered discipline. Any period of time

235 during which the offender is unable to participate in the
236 reentry program shall be excluded from the specified time
237 requirements in the reentry program.

238 (b) The department may terminate an offender from the
239 reentry program if:

240 1. The offender commits or threatens to commit a violent
241 act;

242 2. The department determines that the offender is unable
243 to participate in the reentry program due to the offender's
244 medical condition;

245 3. The offender's sentence is modified or expires;

246 4. The department reassigns the offender's classification
247 status; or

248 5. The department determines that removing the offender
249 from the reentry program is in the best interest of the offender
250 or the security of the institution.

251 (8) (a) The department shall submit a report to the
252 sentencing court at least 30 days before the nonviolent offender
253 is scheduled to complete the reentry program. The report must
254 describe the offender's performance in the reentry program and
255 certify whether the performance is satisfactory. If the
256 performance is satisfactory to the department, the court shall
257 hold a hearing to determine:

258 1. Whether the offender's performance in the reentry
259 program is satisfactory to the court.

260 2. Whether the public safety will be compromised by a

261 modification of sentence.

262 3. Any appropriate modification of sentence which shall
263 not be less than the minimum punishment required by law at the
264 time of the commission of the offense or offenses for which the
265 offender was sentenced.

266 (b) After consideration of all information available to
267 the court, the court may issue an order modifying the sentence
268 imposed and may place the offender on drug offender probation,
269 as defined in s. 948.001, Florida Statutes, subject to the
270 department's certification of the offender's successful
271 completion of the remainder of the reentry program. The term of
272 drug offender probation may include placement in a community
273 residential or nonresidential substance abuse treatment facility
274 under the jurisdiction of the department or the Department of
275 Children and Family Services or any public or private entity
276 providing such services. The order shall include findings
277 showing that the requirements for resentencing under this
278 section are satisfied and that the public safety will not be
279 compromised. If the nonviolent offender violates the conditions
280 of drug offender probation, the court may revoke probation and
281 impose any sentence that it might have originally imposed.

282 (c) If an offender being released pursuant to paragraph
283 (b) intends to reside in a county that has established a
284 postadjudicatory drug court program as described in s. 397.334,
285 Florida Statutes, the sentencing court may require the offender
286 to successfully complete the postadjudicatory drug court program

287 as a condition of drug offender probation after considering the
288 county program's record of helping offenders avoid recidivism.
289 The original sentencing court shall relinquish jurisdiction of
290 the offender's case to the postadjudicatory drug court program
291 until the offender is no longer active in the program, the case
292 is returned to the sentencing court due to the offender's
293 termination from the program for failure to comply with the
294 terms thereof, or the offender's sentence is completed. If
295 transferred to a postadjudicatory drug court program, the
296 offender shall comply with all conditions and orders of the
297 program.

298 (9) The department shall implement the reentry program to
299 the fullest extent feasible within available resources.

300 (10) The department shall submit an annual report to the
301 Governor, the President of the Senate, and the Speaker of the
302 House of Representatives detailing the extent of implementation
303 of the reentry program, the number of participants selected,
304 approved, and who have successfully completed the program, a
305 reasonable estimate or description of the additional public
306 costs incurred and any public funds saved with respect to each
307 participant, a brief description of each sentence modification,
308 and a brief description of the subsequent criminal history, if
309 any, of each participant following any modification of sentence
310 under this section. The report shall also outline future goals
311 and any recommendation the department has for future legislative
312 action.

313 (11) The department may enter into performance-based
314 contracts with qualified individuals, agencies, or corporations
315 for the provision of any or all of the services for the reentry
316 program provided that no offender may be released from the
317 custody of the department under this section except pursuant to
318 a judicial order modifying a sentence.

319 (12) A nonviolent offender in the reentry program is
320 subject to rules of conduct established by the department and
321 may have sanctions imposed, including loss of privileges,
322 restrictions, disciplinary confinement, alteration of release
323 plans, or other program modifications in keeping with the nature
324 and gravity of the program violation. Administrative or
325 protective confinement, as necessary, may be imposed.

326 (13) This section does not create or confer any right to
327 any inmate to placement in the reentry program or any right to
328 placement or early release under supervision of any type. No
329 inmate may have a cause of action under this section against the
330 department, a court, or the state attorney related to the
331 reentry program. Nothing in this subsection is severable from
332 the remaining provisions of this section. If this subsection is
333 determined by any state or federal court to be not fully
334 enforceable, this section shall stand repealed in its entirety.

335 (14) The department may establish a system of incentives
336 within the reentry program which the department may use to
337 promote participation in rehabilitative programs and the orderly
338 operation of institutions and facilities.

339 (15) The department shall develop a system for tracking
340 recidivism, including, but not limited to, rearrests and
341 recommitment of nonviolent offenders who successfully complete
342 the reentry program, and shall report the recidivism rate in its
343 annual report of the program.

344 (16) The department shall adopt rules pursuant to ss.
345 120.536(1) and 120.54, Florida Statutes, as are necessary to
346 administer the reentry program.

347 Section 2. This act shall take effect October 1, 2012.