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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2012	.	
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The Committee on Budget Subcommittee on Criminal and Civil Justice Appropriations (Bogdanoff) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Nonviolent offender reentry program.—

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

(a) “Department” means the Department of Corrections.

(b) “Nonviolent offender” means an offender:

1. Whose primary offense is a felony of the third degree or a felony offense described in s. 893.13, Florida Statutes;

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



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13           3. Who has never been convicted of an offense listed in s.  
14 775.082(9)(a)1.r., Florida Statutes, without regard to prior  
15 incarceration or release;

16           4. Who has never been convicted of an offense described in  
17 chapter 847, Florida Statutes, involving a minor or a depiction  
18 of a minor;

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

21           6. Who has never been convicted of any offense described in  
22 s. 784.07, s. 784.074, s. 784.075, s. 784.076, s. 784.08, s.  
23 784.083 or s. 784.085, Florida Statutes;

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

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

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

31           10. Who is not the subject of a domestic violence  
32 injunction currently in force.

33           (2)(a) The department shall develop and administer a  
34 reentry program for nonviolent offenders. The reentry program  
35 must include prison-based substance abuse treatment, general  
36 education development and adult basic education courses,  
37 vocational training, training in decisionmaking and personal  
38 development, and other rehabilitation programs.

39           (b) The reentry program is intended to divert nonviolent  
40 offenders from long periods of incarceration when a reduced  
41 period of incarceration supplemented by participation in



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42 intensive substance abuse treatment and rehabilitative  
43 programming could produce the same deterrent effect, protect the  
44 public, rehabilitate the offender, and reduce recidivism.

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

49 (d) A reentry program may be operated in a secure area in  
50 or adjacent to an adult institution.

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

57 (4) The department shall select eligible offenders for the  
58 reentry program. When selecting participants for the reentry  
59 program, the department shall be guided in its selection by its  
60 evaluation of the following considerations:

61 (a) The offender's history of disciplinary reports;

62 (b) The offender's criminal history, with particular  
63 scrutiny of any charges for offenses listed in paragraph (1) (b);

64 (c) The severity of the offender's addiction;

65 (d) The offender's history of criminal behavior related to  
66 substance abuse;

67 (e) Whether the offender has participated or requested to  
68 participate in any General Educational Development or other  
69 educational, technical, work, vocational, or self-rehabilitation  
70 program;



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71 (f) The results of any risk assessment of the offender;

72 (g) The outcome of all past participation of the offender  
73 in substance abuse treatment programs;

74 (h) The possible rehabilitative benefits that substance  
75 abuse treatment, educational programming, vocational training,  
76 and other rehabilitative programming might have on the offender;  
77 and

78 (i) The likelihood that the offender's participation in the  
79 program will produce the same deterrent effect, protect the  
80 public, save taxpayer dollars, and prevent or delay recidivism  
81 to an equal or greater extent than completion of the sentence  
82 previously imposed.

83 (5) (a) If an offender volunteers to participate in the  
84 reentry program, meets the eligibility criteria, is selected by  
85 the department based on the considerations in subsection (4),  
86 and space is available in the reentry program, the department  
87 may request the sentencing court to approve the offender's  
88 participation in the reentry program. The request shall be made  
89 in writing and shall include a brief summation of the  
90 department's evaluation under subsection (4) and a recital of  
91 the documents or other information upon which the evaluation is  
92 based. All documents may be delivered to the sentencing court  
93 electronically.

94 (b)1. The department shall notify the state attorney that  
95 the offender is being considered for placement in the reentry  
96 program. The notice must include a copy of all documents  
97 provided with the request to the court. The notice and all  
98 documents may be delivered to the state attorney electronically  
99 and may take the form of a copy of an electronic delivery to the



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100 sentencing court.

101 2. The notice must also state that the state attorney may  
102 notify the sentencing court in writing of any objection the  
103 state attorney might have if the nonviolent offender is placed  
104 in the reentry program. The state attorney must notify the  
105 sentencing court of his or her objections within 15 days after  
106 receiving the notice. Whether or not an objection is raised, the  
107 state attorney may provide to the sentencing court any  
108 information supplemental or contrary to the information provided  
109 by the department which may assist the court in its  
110 determination.

111 (c) When approving a nonviolent offender for participation  
112 in the reentry program, the sentencing court may consider any  
113 facts the court considers relevant, including, but not limited  
114 to:

115 1. The criteria listed in subsection (4);

116 2. The original sentencing report and any evidence admitted  
117 in a previous sentencing proceeding;

118 3. The offender's record of arrests without conviction for  
119 crimes, and any other evidence of allegations of unlawful  
120 conduct or the use of violence by the offender;

121 4. The offender's family ties, length of residence in the  
122 community, employment history, and mental condition;

123 5. The likelihood that participation in the program will  
124 produce the same deterrent effect, rehabilitate the offender,  
125 and prevent or delay recidivism to an equal or greater extent  
126 than completion of the sentence previously imposed; and

127 6. The likelihood that the offender will engage again in a  
128 criminal course of conduct.



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129       (d) The sentencing court shall notify the department in  
130 writing of the court's decision to approve or disapprove the  
131 requested placement of the nonviolent offender no later than 30  
132 days after the court receives the department's request to place  
133 the offender in the reentry program. If the court approves, the  
134 notification shall list the factors upon which the court relied  
135 in approving the placement. Failure to notify the department of  
136 the court's decision within the 30-day period constitutes  
137 disapproval to place the offender into the reentry program.

138       (6) After the nonviolent offender is admitted into the  
139 reentry program, he or she shall undergo a full substance abuse  
140 assessment to determine his or her substance abuse treatment  
141 needs. The offender shall also have an educational assessment,  
142 which shall be accomplished using the Test of Adult Basic  
143 Education or any other testing instrument approved by the  
144 Department of Education. Each offender who has not obtained a  
145 high school diploma shall be enrolled in an adult education  
146 program designed to aid the offender in improving his or her  
147 academic skills and earn a high school diploma. Further  
148 assessments of the offender's vocational skills and future  
149 career education shall be provided to the offender as needed. A  
150 periodic reevaluation shall be made in order to assess the  
151 progress of each offender.

152       (7) (a) If a nonviolent offender in the reentry program  
153 becomes unmanageable, the department may revoke the offender's  
154 gain-time and place the offender in disciplinary confinement in  
155 accordance with department rule. Except as provided in paragraph  
156 (b), the offender shall be readmitted to the reentry program  
157 after completing the ordered discipline. Any period of time



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158 during which the offender is unable to participate in the  
159 reentry program shall be excluded from the specified time  
160 requirements in the reentry program.

161 (b) The department may terminate an offender from the  
162 reentry program if:

163 1. The offender commits or threatens to commit a violent  
164 act;

165 2. The department determines that the offender is unable to  
166 participate in the reentry program due to the offender's medical  
167 condition;

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

169 4. The department reassigns the offender's classification  
170 status; or

171 5. The department determines that removing the offender  
172 from the reentry program is in the best interest of the offender  
173 or the security of the institution.

174 (8) (a) The department shall submit a report to the  
175 sentencing court at least 30 days before the nonviolent offender  
176 is scheduled to complete the reentry program. The report must  
177 describe the offender's performance in the reentry program and  
178 certify whether the performance is satisfactory. If the  
179 performance is satisfactory to the department, the court shall  
180 hold a hearing to determine:

181 1. Whether the offender's performance in the reentry  
182 program is satisfactory to the court;

183 2. Whether the public safety will be compromised by a  
184 modification of sentence; and

185 3. Any appropriate modification of sentence, which may not  
186 be less than the minimum punishment required by law at the time



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187 of the commission of the offense or offenses for which the  
188 offender was sentenced.

189 (b) After consideration of all information available to the  
190 court, the court may issue an order modifying the sentence  
191 imposed and may place the offender on drug offender probation,  
192 as defined in s. 848.20(2), Florida Statutes, subject to the  
193 department's certification of the offender's successful  
194 completion of the remainder of the reentry program. The term of  
195 drug offender probation may include placement in a community  
196 residential or nonresidential substance abuse treatment facility  
197 under the jurisdiction of the department or the Department of  
198 Children and Family Services or any public or private entity  
199 providing such services. The order shall include findings  
200 showing that the requirements for resentencing under this  
201 section are satisfied and that the public safety will not be  
202 compromised. If the nonviolent offender violates the conditions  
203 of drug offender probation, the court may revoke probation and  
204 impose any sentence that it might have originally imposed.

205 (c) If an offender being released pursuant to paragraph (b)  
206 intends to reside in a county that has established a  
207 postadjudicatory drug court program as described in s. 397.334,  
208 Florida Statutes, the sentencing court may require the offender  
209 to successfully complete the postadjudicatory drug court program  
210 as a condition of drug offender probation after considering the  
211 county program's record of helping offenders avoid recidivism.  
212 The original sentencing court shall relinquish jurisdiction of  
213 the offender's case to the postadjudicatory drug court program  
214 until the offender is no longer active in the program, the case  
215 is returned to the sentencing court due to the offender's





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216 termination from the program for failure to comply with the  
217 terms thereof, or the offender's sentence is completed. If  
218 transferred to a postadjudicatory drug court program, the  
219 offender shall comply with all conditions and orders of the  
220 program.

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

223 (10) The department shall submit an annual report to the  
224 Governor, the President of the Senate, and the Speaker of the  
225 House of Representatives detailing the extent of implementation  
226 of the reentry program; the number of participants selected,  
227 approved, and successfully completing the program; a reasonable  
228 estimate or description of the additional public costs incurred  
229 and any public funds saved with respect to each participant; and  
230 a brief description of each sentence modification and a brief  
231 description of the subsequent criminal history, if any, of each  
232 participant following any modification of sentence under this  
233 section. The report shall also outline future goals and any  
234 recommendation the department has for future legislative action.

235 (11) The department may enter into performance-based  
236 contracts with qualified persons, agencies, or corporations to  
237 provide any or all of the services for the reentry program;  
238 however, an offender may not be released from the custody of the  
239 department under this section except pursuant to a judicial  
240 order modifying a sentence.

241 (12) A nonviolent offender in the reentry program is  
242 subject to rules of conduct established by the department and  
243 may have sanctions imposed, including, but not limited to, GPS  
244 monitoring, loss of privileges, restrictions, disciplinary



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245 confinement, alteration of release plans, or other program  
246 modifications in keeping with the nature and gravity of the  
247 program violation. Administrative or protective confinement, as  
248 necessary, may be imposed.

249 (13) This section does not create or confer any right of  
250 any inmate to placement in the reentry program or any right to  
251 placement or early release under supervision of any type. An  
252 inmate does not have a cause of action under this section  
253 against the department, a court, or the state attorney related  
254 to the reentry program. This subsection is not severable from  
255 the remaining provisions of this section. If this subsection is  
256 determined by any state or federal court to be not fully  
257 enforceable this section is repealed.

258 (14) The department may establish a system of incentives  
259 within the reentry program which the department may use to  
260 promote participation in rehabilitative programs and the orderly  
261 operation of institutions and facilities.

262 (15) The department shall develop a system for tracking  
263 recidivism, including, but not limited to, rearrests and  
264 recommitment of nonviolent offenders who successfully complete  
265 the reentry program, and shall report the recidivism rate in its  
266 annual report of the program.

267 (16) The department shall adopt rules pursuant to ss.  
268 120.536(1) and 120.54, Florida Statutes, as are necessary to  
269 administer the reentry program.

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

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

273 And the title is amended as follows:



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Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to inmate reentry; defining the terms  
"department" and "nonviolent offender"; directing the  
Department of Corrections to develop and administer a  
reentry program for nonviolent offenders which is  
intended to divert nonviolent offenders from long  
periods of incarceration; requiring that the program  
include intensive substance abuse treatment and  
rehabilitative programming; providing for the minimum  
length of service in the program; providing that any  
portion of a sentence before placement in the program  
does not count as progress toward program completion;  
specifying eligibility criteria for a nonviolent  
offender to be placed into the reentry program;  
directing the court to screen and select eligible  
offenders for the program based on specified  
considerations; directing the department to notify the  
nonviolent offender's sentencing court in order to  
obtain approval before the nonviolent offender is  
placed into the reentry program; requiring the  
department to notify the state attorney; authorizing  
the state attorney to file objections to placing the  
offender into the reentry program within a specified  
period; requiring the sentencing court to notify the  
department of the court's decision to approve or  
disapprove the requested placement within a specified



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303 period; providing that failure of the court to timely  
304 notify the department of the court's decision  
305 constitutes disapproval of the requested placement;  
306 requiring the nonviolent offender to undergo an  
307 education assessment and a full substance abuse  
308 assessment if admitted into the reentry program;  
309 requiring the offender to be enrolled in an adult  
310 education program in specified circumstances;  
311 requiring that assessments of vocational skills and  
312 future career education be provided to the offender;  
313 requiring that certain reevaluation be made  
314 periodically; providing that the nonviolent offender  
315 is subject to the disciplinary rules of the  
316 department; specifying the reasons for which the  
317 offender may be terminated from the reentry program;  
318 requiring that the department submit a report to the  
319 sentencing court at least 30 days before the  
320 nonviolent offender is scheduled to complete the  
321 reentry program; setting forth the issues to be  
322 addressed in the report; requiring the sentencing  
323 court to hold a hearing to consider modifying the  
324 sentence imposed and authorizing the court to place  
325 the nonviolent offender on drug offender probation if  
326 the nonviolent offender's performance is satisfactory;  
327 authorizing the court to revoke probation and impose  
328 the original sentence in specified circumstances;  
329 authorizing the court to require the offender to  
330 complete a postadjudicatory drug court program in  
331 specified circumstances; directing the department to



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332 implement the reentry program using available  
333 resources; requiring the department to submit an  
334 annual report to the Governor and Legislature  
335 detailing the extent of implementation of the reentry  
336 program; specifying information to be provided and  
337 outlining future goals and recommendations;  
338 authorizing the department to enter into contracts  
339 with qualified individuals, agencies, or corporations  
340 for services for the reentry program; authorizing the  
341 department to impose administrative or protective  
342 confinement as necessary; authorizing the department  
343 to establish a system of incentives within the reentry  
344 program which the department may use to promote  
345 participation in rehabilitative programs and the  
346 orderly operation of institutions and facilities;  
347 providing that the act does not create a right to  
348 placement in the reentry program or any right to  
349 placement or early release under supervision of any  
350 type; providing that the act does not create a cause  
351 of action related to the program; directing the  
352 department to develop a system for tracking  
353 recidivism, including, but not limited to, rearrests  
354 and recommitment of nonviolent offenders who  
355 successfully complete the reentry program, and to  
356 report on recidivism in its annual report of the  
357 program; directing the department to adopt rules;  
358 providing an effective date.