

By the Committees on Budget Subcommittee on Criminal and Civil Justice Appropriations; and Criminal Justice; and Senators Bogdanoff and Lynn

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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 in order to
19 obtain approval before the nonviolent offender is
20 placed into the reentry program; requiring the
21 department to notify the state attorney; authorizing
22 the state attorney to file objections to placing the
23 offender into the reentry program within a specified
24 period; 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;

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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

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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 act 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 act does not create a cause
75 of action related to the program; directing the
76 department to develop a system for tracking
77 recidivism, including, but not limited to, rearrests
78 and recommitment of nonviolent offenders who
79 successfully complete the reentry program, and to
80 report on recidivism in its annual report of the
81 program; directing the department to adopt rules;
82 providing an effective date.

83

84 Be It Enacted by the Legislature of the State of Florida:

85

86 Section 1. Nonviolent offender reentry program.-

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

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

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

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

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

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

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

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

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

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

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

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

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

113 (2)(a) The department shall develop and administer a
114 reentry program for nonviolent offenders. The reentry program
115 must include prison-based substance abuse treatment, general
116 education development and adult basic education courses,

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117 vocational training, training in decisionmaking and personal
118 development, and other rehabilitation programs.

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

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

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

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

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

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

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

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

145 (d) The offender's history of criminal behavior related to

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146 substance abuse;

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

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

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

154 (h) The possible rehabilitative benefits that substance
155 abuse treatment, educational programming, vocational training,
156 and other rehabilitative programming might have on the offender;
157 and

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

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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 which 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:

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

196 2. The original sentencing report and any evidence admitted
197 in a previous sentencing proceeding;

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

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

203 5. The likelihood that participation in the program will

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204 produce the same deterrent effect, rehabilitate the offender,
205 and prevent or delay recidivism to an equal or greater extent
206 than completion of the sentence previously imposed; and

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

209 (d) The sentencing court shall notify the department in
210 writing of the court's decision to approve or disapprove the
211 requested placement of the nonviolent offender no later than 30
212 days after the court receives the department's request to place
213 the offender in the reentry program. If the court approves, the
214 notification shall list the factors upon which the court relied
215 in approving the placement. Failure to notify the department of
216 the court's decision within the 30-day period constitutes
217 disapproval to place the offender into the reentry program.

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

232 (7) (a) If a nonviolent offender in the reentry program

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233 becomes unmanageable, the department may revoke the offender's
234 gain-time and place the offender in disciplinary confinement in
235 accordance with department rule. Except as provided in paragraph
236 (b), the offender shall be readmitted to the reentry program
237 after completing the ordered discipline. Any period of time
238 during which the offender is unable to participate in the
239 reentry program shall be excluded from the specified time
240 requirements in the reentry program.

241 (b) The department may terminate an offender from the
242 reentry program if:

243 1. The offender commits or threatens to commit a violent
244 act;

245 2. The department determines that the offender is unable to
246 participate in the reentry program due to the offender's medical
247 condition;

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

249 4. The department reassigns the offender's classification
250 status; or

251 5. The department determines that removing the offender
252 from the reentry program is in the best interest of the offender
253 or the security of the institution.

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

261 1. Whether the offender's performance in the reentry

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262 program is satisfactory to the court;

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

265 3. Any appropriate modification of sentence, which may not
266 be less than the minimum punishment required by law at the time
267 of the commission of the offense or offenses for which the
268 offender was sentenced.

269 (b) After consideration of all information available to the
270 court, the court may issue an order modifying the sentence
271 imposed and may place the offender on drug offender probation,
272 as defined in s. 848.20(2), Florida Statutes, subject to the
273 department's certification of the offender's successful
274 completion of the remainder of the reentry program. The court
275 may place the offender on GPS monitoring as a condition of drug
276 offender probation. The term of drug offender probation may
277 include placement in a community residential or nonresidential
278 substance abuse treatment facility under the jurisdiction of the
279 department or the Department of Children and Family Services or
280 any public or private entity providing such services. The order
281 shall include findings showing that the requirements for
282 resentencing under this section are satisfied and that the
283 public safety will not be compromised. If the nonviolent
284 offender violates the conditions of drug offender probation, the
285 court may revoke probation and impose any sentence that it might
286 have originally imposed.

287 (c) If an offender being released pursuant to paragraph (b)
288 intends to reside in a county that has established a
289 postadjudicatory drug court program as described in s. 397.334,
290 Florida Statutes, the sentencing court may require the offender

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

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

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

317 (11) The department may enter into performance-based
318 contracts with qualified persons, agencies, or corporations to
319 provide any or all of the services for the reentry program;

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320 however, an offender may not be released from the custody of the
321 department under this section except pursuant to a judicial
322 order modifying a sentence.

323 (12) A nonviolent offender in the reentry program is
324 subject to rules of conduct established by the department and
325 may have sanctions imposed, including, but not limited to, GPS
326 monitoring, loss of privileges, restrictions, disciplinary
327 confinement, alteration of release plans, or other program
328 modifications in keeping with the nature and gravity of the
329 program violation. Administrative or protective confinement, as
330 necessary, may be imposed.

331 (13) This section does not create or confer any right of
332 any inmate to placement in the reentry program or any right to
333 placement or early release under supervision of any type. An
334 inmate does not have a cause of action under this section
335 against the department, a court, or the state attorney related
336 to the reentry program. This subsection is not severable from
337 the remaining provisions of this section. If this subsection is
338 determined by any state or federal court to be not fully
339 enforceable this section is repealed.

340 (14) The department may establish a system of incentives
341 within the reentry program which the department may use to
342 promote participation in rehabilitative programs and the orderly
343 operation of institutions and facilities.

344 (15) The department shall develop a system for tracking
345 recidivism, including, but not limited to, rearrests and
346 recommitment of nonviolent offenders who successfully complete
347 the reentry program, and shall report the recidivism rate in its
348 annual report of the program.

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349 (16) The department shall adopt rules pursuant to ss.
350 120.536(1) and 120.54, Florida Statutes, as are necessary to
351 administer the reentry program.

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