

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

604-04282A-12

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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;

604-04282A-12

2012448c2

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

604-04282A-12

2012448c2

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:

604-04282A-12

2012448c2

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,

604-04282A-12

2012448c2

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

604-04282A-12

2012448c2

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

604-04282A-12

2012448c2

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

604-04282A-12

2012448c2

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

604-04282A-12

2012448c2

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

604-04282A-12

2012448c2

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

604-04282A-12

2012448c2

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;

604-04282A-12

2012448c2

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.

604-04282A-12

2012448c2

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.