

By Senator Thompson

12-01159-13

20131704__

1 A bill to be entitled
2 An act relating to inmate reentry; providing
3 definitions; directing the Department of Corrections
4 to develop and administer a reentry program for
5 nonviolent offenders which is intended to divert
6 nonviolent offenders from long periods of
7 incarceration; requiring that the program include
8 intensive substance abuse treatment and rehabilitative
9 programming; providing for the minimum length of
10 service in the program; providing that any portion of
11 a sentence before placement in the program does not
12 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; requiring the nonviolent offender to undergo
28 an education assessment and a full substance abuse
29 assessment if admitted into the reentry program;

12-01159-13

20131704__

30 requiring the offender to be enrolled in an adult
31 education program in specified circumstances;
32 requiring that assessments of vocational skills and
33 future career education be provided to the offender;
34 requiring that certain reevaluation be made
35 periodically; providing that the nonviolent offender
36 is subject to the disciplinary rules of the
37 department; specifying the reasons for which the
38 offender may be terminated from the reentry program;
39 requiring that the department submit a report to the
40 sentencing court at least 30 days before the
41 nonviolent offender is scheduled to complete the
42 reentry program; setting forth the issues to be
43 addressed in the report; providing a court may
44 schedule a hearing to consider any modifications to an
45 imposed sentence; requiring the sentencing court to
46 issue an order modifying the sentence imposed and
47 placing the nonviolent offender on drug offender
48 probation if the nonviolent offender's performance is
49 satisfactory; authorizing the court to revoke
50 probation and impose the original sentence in
51 specified circumstances; authorizing the court to
52 require the offender to complete a postadjudicatory
53 drug court program in specified circumstances;
54 directing the department to implement the reentry
55 program using available resources; requiring the
56 department to submit an annual report to the Governor
57 and Legislature detailing the extent of implementation
58 of the reentry program, specifying information to be

12-01159-13

20131704

59 provided and outlining future goals and
60 recommendations; authorizing the department to enter
61 into contracts with qualified individuals, agencies,
62 or corporations for services for the reentry program;
63 authorizing the department to impose administrative or
64 protective confinement as necessary; providing that
65 the section does not create a right to placement in
66 the reentry program or any right to placement or early
67 release under supervision of any type; providing that
68 the section does not create a cause of action related
69 to the program; providing that specified provisions
70 are not severable; authorizing the department to
71 establish a system of incentives within the reentry
72 program which the department may use to promote
73 participation in rehabilitative programs and the
74 orderly operation of institutions and facilities;
75 directing the department to develop a system for
76 tracking recidivism, including, but not limited to,
77 rearrests and recommitment of nonviolent offenders who
78 successfully complete the reentry program, and to
79 report on recidivism in its annual report of the
80 program; directing the department to adopt rules;
81 providing an effective date.

82
83 Be It Enacted by the Legislature of the State of Florida:

84
85 Section 1. Nonviolent offender reentry program.-

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

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

12-01159-13

20131704

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

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

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

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

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

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

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

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

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

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

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

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

12-01159-13

20131704

117 development, and other rehabilitation programs.

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

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

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

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

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

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

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

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

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

12-01159-13

20131704

146 (e) Whether the offender has participated or requested to
147 participate in a general education development or other
148 educational, technical, work, vocational, or self-rehabilitation
149 program.

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

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

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

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

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

172 (b)1. The department shall notify the state attorney that
173 the offender is being considered for placement in the reentry
174 program. The notice must include a copy of all documents

12-01159-13

20131704

175 provided with the request to the court. The notice and all
176 documents may be delivered to the state attorney electronically
177 and may take the form of a copy of an electronic delivery to the
178 sentencing court.

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

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

12-01159-13

20131704

204 (d) The sentencing court shall notify the department in
205 writing of the court's decision to approve or disapprove the
206 requested placement of the nonviolent offender within 30 days
207 after the court receives the department's request to place the
208 offender in the reentry program. If the court approves, the
209 notification shall list the factors upon which the court relied
210 in approving the placement.

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

225 (7) (a) If a nonviolent offender in the reentry program
226 becomes unmanageable, the department may revoke the offender's
227 gain-time and place the offender in disciplinary confinement in
228 accordance with department rule. Except as provided in paragraph
229 (b), the offender shall be readmitted to the reentry program
230 after completing the ordered discipline. Any period during which
231 the offender is unable to participate in the reentry program
232 shall be excluded from the specified time requirements in the

12-01159-13

20131704

233 reentry program.

234 (b) The department may terminate an offender from the
235 reentry program if:

236 1. The offender commits or threatens to commit a violent
237 act;

238 2. The department determines that the offender is unable to
239 participate in the reentry program due to the offender's medical
240 condition;

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

242 4. The department reassigns the offender's classification
243 status; or

244 5. The department determines that removing the offender
245 from the reentry program is in the best interest of the offender
246 or the security of the institution.

247 (8) (a) The department shall submit a report to the
248 sentencing court at least 30 days before the nonviolent offender
249 is scheduled to complete the reentry program. The report must
250 describe the offender's performance in the reentry program and
251 certify whether the performance is satisfactory. The court may
252 schedule a hearing to consider any modification to the imposed
253 sentence. Notwithstanding the eligibility criteria contained in
254 s. 948.20, Florida Statutes, if the offender's performance is
255 satisfactory to the department and the court, the court shall
256 issue an order modifying the sentence imposed and placing the
257 offender on drug offender probation as described in s.
258 948.20(2), Florida Statutes, subject to the department's
259 certification of the offender's successful completion of the
260 remainder of the reentry program. The term of drug offender
261 probation must not be less than the remainder of time that the

12-01159-13

20131704

262 offender would have served in prison, but for participating in
263 the program. A condition of drug offender probation may include
264 electronic monitoring or placement in a community residential or
265 nonresidential licensed substance abuse treatment facility under
266 the jurisdiction of the department or the Department of Children
267 and Families or any public or private entity providing such
268 services. The order shall include findings that the offender's
269 performance is satisfactory, that the requirements for
270 resentencing under this section are satisfied, and that the
271 public safety will not be compromised. If the nonviolent
272 offender violates the conditions of drug offender probation, the
273 court may revoke probation and impose any sentence that it might
274 have originally imposed. An offender may not be released from
275 the custody of the department under this section except pursuant
276 to a judicial order modifying his or her sentence.

277 (b) If an offender being released pursuant to paragraph (a)
278 intends to reside in a county that has established a
279 postadjudicatory drug court program as described in s. 397.334,
280 Florida Statutes, the sentencing court may require the offender
281 to successfully complete the postadjudicatory drug court program
282 as a condition of drug offender probation. The original
283 sentencing court shall relinquish jurisdiction of the offender's
284 case to the postadjudicatory drug court program until the
285 offender is no longer active in the program, the case is
286 returned to the sentencing court due to the offender's
287 termination from the program for failure to comply with the
288 terms thereof, or the offender's sentence is completed. If
289 transferred to a postadjudicatory drug court program, the
290 offender shall comply with all conditions and orders of the

12-01159-13

20131704

291 program.

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

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

307 (11) The department may enter into performance-based
308 contracts with qualified individuals, agencies, or corporations
309 for the provision of any or all of the services for the reentry
310 program provided that an offender may not be released from the
311 custody of the department under this section except pursuant to
312 a judicial order modifying a sentence.

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

12-01159-13

20131704

320 (13) This section does not create or confer any right to
321 any inmate to placement in the reentry program or any right to
322 placement or early release under supervision of any type. An
323 inmate does not have a cause of action under this section
324 against the department, a court, or the state attorney related
325 to the reentry program. This subsection is not severable from
326 the remaining provisions of this section. If this subsection is
327 determined by any state or federal court to be not fully
328 enforceable, this section shall stand repealed in its entirety.

329 (14) The department may establish a system of incentives
330 within the reentry program which the department may use to
331 promote participation in rehabilitative programs and the orderly
332 operation of institutions and facilities.

333 (15) The department shall develop a system for tracking
334 recidivism, including, but not limited to, rearrests and
335 recommitment of nonviolent offenders who successfully complete
336 the reentry program, and shall report the recidivism rate in its
337 annual report of the program.

338 (16) The department shall adopt rules pursuant to ss.
339 120.536(1) and 120.54, Florida Statutes, as are necessary to
340 administer the reentry program.

341 Section 2. This act shall take effect October 1, 2013.