

By Senator Garcia

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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"; requiring 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 identifying permissible locations for the operation of
14 a reentry program; specifying eligibility criteria for
15 a nonviolent offender to be placed into the reentry
16 program; requiring the department to screen and select
17 eligible offenders for the program based on specified
18 considerations; requiring the department to notify the
19 nonviolent offender's sentencing court to obtain
20 approval before the nonviolent offender is placed into
21 the reentry program; requiring the department to
22 notify the state attorney; authorizing the state
23 attorney to file objections to placing the offender
24 into the reentry program within a specified period;
25 authorizing the sentencing court to consider certain
26 factors when deciding whether to approve an offender
27 for enrollment in a reentry program; requiring the
28 sentencing court to notify the department of the
29 court's decision to approve or disapprove the

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

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

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

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

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

92 (b) "Nonviolent offender" means an offender whose primary
93 offense is a felony of the third degree and who:

94 1. Has never been convicted of a forcible felony as defined
95 in s. 776.08, Florida Statutes;

96 2. Has never been convicted of an offense listed in s.
97 775.082(9)(a)1.r., Florida Statutes, regardless of prior
98 incarceration or release;

99 3. Has never been convicted of an offense described in
100 chapter 847, Florida Statutes;

101 4. Has never been convicted of an offense described in
102 chapter 827, Florida Statutes;

103 5. Has never been convicted of any offense described in s.
104 784.07, s. 784.074, s. 784.075, s. 784.076, s. 784.08, s.
105 784.083, or s. 784.085, Florida Statutes;

106 6. Has never been convicted of any offense involving the
107 possession or use of a firearm;

108 7. Has never been convicted of a capital felony or a felony
109 of the first or second degree;

110 8. Has never been convicted of any offense that requires a
111 person to register as a sexual offender pursuant to s. 943.0435,
112 Florida Statutes; and

113 9. Is not the subject of a domestic violence injunction
114 currently in force.

115 (2)(a) The department shall develop and administer a
116 reentry program for nonviolent offenders. The reentry program

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117 must include prison-based substance abuse treatment, general
118 education development and adult basic education courses,
119 vocational training, training in decisionmaking and personal
120 development, and other rehabilitation programs.

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

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

131 (d) A reentry program may be operated in a secure area in
132 or adjacent to a correctional institution.

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

139 (4) In addition, the department must consider the following
140 factors when selecting participants for the reentry program:

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

142 (b) The offender's criminal history.

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

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

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146 (e) Whether the offender has participated or requested to
147 participate in any general educational development certificate
148 program or other educational, technical, work, vocational, or
149 self-rehabilitation 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 the offender's participation in the
157 program will produce the same deterrent effect, protect the
158 public, save taxpayer dollars, and prevent or delay recidivism
159 to an equal or greater extent than completion of the sentence
160 previously imposed.

161 (5) (a) If an offender volunteers to participate in the
162 reentry program, meets the eligibility criteria, and is selected
163 by the department based on the considerations in subsection (4)
164 and if 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 must be made
167 in writing and must 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. The request and all documents may be delivered to the
171 sentencing court 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

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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 the sentencing court with any
186 information supplemental or contrary to the information provided
187 by the department which 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 that the court considers relevant, including, but not
192 limited 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 criminal conduct.

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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 no later than 30
207 days after the court receives the department's request to place
208 the 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 must 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 to assess the progress of
224 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 cannot participate in the reentry program shall be
232 excluded from the specified time requirements in the reentry

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233 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 cannot
239 participate in the reentry program because of the offender's
240 medical 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 remaining time the offender

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262 would have served in prison, but for participating in the
263 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 must include findings that the offender's
269 performance is satisfactory, that the requirements for
270 resentencing under this section are satisfied, and that public
271 safety will not be compromised. If the nonviolent offender
272 violates the conditions of drug offender probation, the court
273 may revoke probation and impose any sentence that it might have
274 originally imposed. An offender may not be released from the
275 custody of the department under this section except pursuant to
276 a judicial order modifying his or her sentence.

277 (b) If an offender 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

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291 program.

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

294 (10) The department may enter into performance-based
295 contracts with qualified individuals, agencies, or corporations
296 for the provision of any or all of the services for the reentry
297 program, provided that no offender may be released from the
298 custody of the department under this section except pursuant to
299 a judicial order modifying a sentence.

300 (11) A nonviolent offender in the reentry program is
301 subject to rules of conduct established by the department and
302 may have sanctions imposed, including loss of privileges,
303 restrictions, disciplinary confinement, alteration of release
304 plans, or other program modifications in keeping with the nature
305 and gravity of the program violation. Administrative or
306 protective confinement, as necessary, may be imposed.

307 (12) This section does not create or confer any right to
308 any offender to placement in the reentry program or any right to
309 placement or early release under supervision of any type. An
310 inmate may not have a cause of action under this section against
311 the department, a court, or the state attorney related to the
312 reentry program.

313 (13) The department may establish a system of incentives
314 within the reentry program which the department may use to
315 promote participation in rehabilitative programs and the orderly
316 operation of institutions and facilities.

317 (14) The department shall develop a system for tracking
318 recidivism, including, but not limited to, rearrests and
319 recommitment of nonviolent offenders who successfully complete

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320 the reentry program, and shall report the recidivism rate in its
321 annual report of the program.

322 (15) The department shall submit an annual report to the
323 Governor, the President of the Senate, and the Speaker of the
324 House of Representatives detailing the extent of implementation
325 of the reentry program and the number of participants who are
326 selected by the department, the number of participants who are
327 approved by the court, and the number of participants who
328 successfully complete the program. The report must include a
329 reasonable estimate or description of the additional public
330 costs incurred and any public funds saved with respect to each
331 participant, a brief description of each sentence modification,
332 and a brief description of the subsequent criminal history, if
333 any, of each participant following any modification of sentence
334 under this section. The report must also outline future goals
335 and any recommendation that the department has for future
336 legislative action.

337 (16) The department shall adopt rules as necessary to
338 administer the reentry program.

339 (17) Nothing in this section is severable from the
340 remaining provisions of this section. If this subsection is
341 determined by any state or federal court to be not fully
342 enforceable, this section shall stand repealed in its entirety.

343 Section 2. This act shall take effect October 1, 2015.