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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
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The Committee on Judiciary (Bean) recommended the following:

Senate Amendment (with title amendment)

Between lines 3191 and 3192

insert:

Section 29. Section 944.805, Florida Statutes, is created
to read:

944.805 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 whose primary
offense is a felony of the third degree, who is not the subject



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12 of a domestic violence injunction currently in force, and who
13 has never been convicted of:

14 1. A forcible felony as defined in s. 776.08, Florida
15 Statutes;

16 2. An offense specified in s. 775.082(9)(a)1.r., Florida
17 Statutes, regardless of prior incarceration or release;

18 3. An offense described in chapter 847, Florida Statutes;

19 4. An offense under chapter 827, Florida Statutes;

20 5. Any offense specified in s. 784.07, s. 784.074, s.
21 784.075, s. 784.076, s. 784.08, s. 784.083, or s. 784.085,
22 Florida Statutes;

23 6. Any offense involving the possession or use of a
24 firearm;

25 7. A capital felony or a felony of the first or second
26 degree;

27 8. Any offense that requires a person to register as a
28 sexual offender pursuant to s. 943.0435, Florida Statutes.

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

35 (b) The reentry program is intended to divert nonviolent
36 offenders from long periods of incarceration when a reduced
37 period of incarceration supplemented by participation in
38 intensive substance abuse treatment and rehabilitative
39 programming could produce the same deterrent effect, protect the
40 public, rehabilitate the offender, and reduce recidivism.



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

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

47 (3) The department shall screen offenders committed to the
48 department for eligibility to participate in the reentry program
49 using the criteria in this section. To be eligible, an offender
50 must be a nonviolent offender, must have served at least one-
51 half of his or her original sentence, and must have been
52 identified as needing substance abuse treatment.

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

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

56 (b) The offender's criminal history.

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

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

60 (e) Whether the offender has participated or requested to
61 participate in any general educational development certificate
62 program or other educational, technical, work, vocational, or
63 self-rehabilitation program.

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

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

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



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

75 (5) (a) If an offender volunteers to participate in the
76 reentry program, meets the eligibility criteria, and is selected
77 by the department based on the considerations in subsection (4)
78 and if space is available in the reentry program, the department
79 may request the sentencing court to approve the offender's
80 participation in the reentry program. The request must be made
81 in writing, must include a brief summation of the department's
82 evaluation under subsection (4), and must identify the documents
83 or other information upon which the evaluation is based. The
84 request and all accompanying documents may be delivered to the
85 sentencing court electronically.

86 (b)1. The department shall notify the state attorney that
87 the offender is being considered for placement in the reentry
88 program. The notice must include a copy of all documents
89 provided with the request to the court. The notice and all
90 accompanying documents may be delivered to the state attorney
91 electronically and may take the form of a copy of an electronic
92 delivery made to the sentencing court.

93 2. The notice must also state that the state attorney may
94 notify the sentencing court in writing of any objection he or
95 she may have to placement of the nonviolent offender in the
96 reentry program. Such notification must be made within 15 days
97 after receipt of the notice by the state attorney from the
98 department. Regardless of whether an objection is raised, the



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99 state attorney may provide the sentencing court with any
100 information supplemental or contrary to the information provided
101 by the department which may assist the court in its
102 determination.

103 (c) In determining whether to approve a nonviolent offender
104 for participation in the reentry program, the sentencing court
105 may consider any facts that the court considers relevant,
106 including, but not limited to, the criteria listed in subsection
107 (4); the original sentencing report and any evidence admitted in
108 a previous sentencing proceeding; the offender's record of
109 arrests without conviction for crimes; any other evidence of
110 allegations of unlawful conduct or the use of violence by the
111 offender; the offender's family ties, length of residence in the
112 community, employment history, and mental condition; the
113 likelihood that participation in the program will produce the
114 same deterrent effect, rehabilitate the offender, and prevent or
115 delay recidivism to an equal or greater extent than completion
116 of the sentence previously imposed; and the likelihood that the
117 offender will engage again in criminal conduct.

118 (d) The sentencing court shall notify the department in
119 writing of the court's decision to approve or disapprove the
120 requested placement of the nonviolent offender no later than 30
121 days after the court receives the department's request to place
122 the offender in the reentry program. If the court approves the
123 placement, the notification must list the factors upon which the
124 court relied in making its determination.

125 (6) After the nonviolent offender is admitted to the
126 reentry program, he or she shall undergo a complete substance
127 abuse assessment to determine his or her substance abuse



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128 treatment needs. The offender shall also receive an educational
129 assessment, which must be accomplished using the Test of Adult
130 Basic Education or any other testing instrument approved by the
131 Department of Education. Each offender who has not obtained a
132 high school diploma shall be enrolled in an adult education
133 program designed to aid the offender in improving his or her
134 academic skills and earning a high school diploma. Additional
135 assessments of the offender's vocational skills and future
136 career education shall be provided to the offender as needed. A
137 periodic reevaluation shall be made to assess the progress of
138 each offender.

139 (7) (a) If a nonviolent offender in the reentry program
140 becomes unmanageable, the department may revoke the offender's
141 gain-time and place the offender in disciplinary confinement in
142 accordance with department rule. Except as provided in paragraph
143 (b), the offender shall be readmitted to the reentry program
144 after completing the ordered discipline. Any period during which
145 the offender cannot participate in the reentry program must be
146 excluded from the specified time requirements in the reentry
147 program.

148 (b) The department may terminate an offender from the
149 reentry program if:

150 1. The offender commits or threatens to commit a violent
151 act;

152 2. The department determines that the offender cannot
153 participate in the reentry program because of the offender's
154 medical condition;

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

156 4. The department reassigns the offender's classification



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157 status; or

158 5. The department determines that removing the offender
159 from the reentry program is in the best interest of the offender
160 or the security of the reentry program facility.

161 (8) (a) The department shall submit a report to the
162 sentencing court at least 30 days before the nonviolent offender
163 is scheduled to complete the reentry program. The report must
164 describe the offender's performance in the reentry program and
165 certify whether the performance is satisfactory. The court may
166 schedule a hearing to consider any modification to the imposed
167 sentence. Notwithstanding the eligibility criteria contained in
168 s. 948.20, if the offender's performance is satisfactory to the
169 department and the court, the court shall issue an order
170 modifying the sentence imposed and placing the offender on drug
171 offender probation, as described in s. 948.20(2), subject to the
172 department's certification of the offender's successful
173 completion of the remainder of the reentry program. The term of
174 drug offender probation must not be less than the remaining time
175 the offender would have served in prison had he or she not
176 participated in the program. A condition of drug offender
177 probation may include electronic monitoring or placement in a
178 community residential or nonresidential licensed substance abuse
179 treatment facility under the jurisdiction of the department or
180 the Department of Children and Families or any public or private
181 entity providing such services. The order must include findings
182 that the offender's performance is satisfactory, that the
183 requirements for resentencing under this section are satisfied,
184 and that public safety will not be compromised. If the
185 nonviolent offender violates the conditions of drug offender



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186 probation, the court may revoke probation and impose any
187 sentence that it might have originally imposed. An offender may
188 not be released from the custody of the department under this
189 section except pursuant to a judicial order modifying his or her
190 sentence.

191 (b) If an offender released pursuant to paragraph (a)
192 intends to reside in a county that has established a
193 postadjudicatory drug court program as described in s. 397.334,
194 the sentencing court may require the offender to successfully
195 complete the postadjudicatory drug court program as a condition
196 of drug offender probation. The original sentencing court shall
197 relinquish jurisdiction of the offender's case to the
198 postadjudicatory drug court program until the offender is no
199 longer active in the program, the case is returned to the
200 sentencing court due to the offender's termination from the
201 program for failure to comply with the terms of the program, or
202 the offender's sentence is completed. An offender who is
203 transferred to a postadjudicatory drug court program shall
204 comply with all conditions and orders of the program.

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

207 (10) The department may enter into performance-based
208 contracts with qualified individuals, agencies, or corporations
209 for the provision of any or all of the services for the reentry
210 program. However, an offender may not be released from the
211 custody of the department under this section except pursuant to
212 a judicial order modifying a sentence.

213 (11) A nonviolent offender in the reentry program is
214 subject to rules of conduct established by the department and



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215 may have sanctions imposed, including loss of privileges,
216 restrictions, disciplinary confinement, alteration of release
217 plans, or other program modifications in keeping with the nature
218 and gravity of the program violation. Administrative or
219 protective confinement, as necessary, may be imposed.

220 (12) This section does not create or confer any right to
221 any offender to placement in the reentry program or any right to
222 placement or early release under supervision of any type. An
223 inmate does not have a cause of action under this section
224 against the department, a court, or the state attorney related
225 to the reentry program.

226 (13) The department may establish a system of incentives
227 within the reentry program which the department may use to
228 promote participation in rehabilitative programs and the orderly
229 operation of institutions and facilities.

230 (14) The department shall develop a system for tracking
231 recidivism, including, but not limited to, rearrests and
232 recommitment of nonviolent offenders who successfully complete
233 the reentry program, and shall report the recidivism rate in the
234 annual report required under this section.

235 (15) The department shall submit an annual report to the
236 Governor, the President of the Senate, and the Speaker of the
237 House of Representatives detailing the extent of implementation
238 of the reentry program and the number of participants who are
239 selected by the department, the number of participants who are
240 approved by the court, and the number of participants who
241 successfully complete the program. The report must include a
242 reasonable estimate or description of the additional public
243 costs incurred and any public funds saved with respect to each



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244 participant, a brief description of each sentence modification,
245 and a brief description of the subsequent criminal history, if
246 any, of each participant following any modification of sentence
247 under this section. The report must also include future goals
248 and any recommendations that the department has for future
249 legislative action.

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

252 (17) Nothing in this section is severable from the
253 remaining provisions of this section. If any subsection of this
254 section is determined by any state or federal court to be not
255 fully enforceable, this section shall stand repealed in its
256 entirety.

257
258 ===== T I T L E A M E N D M E N T =====

259 And the title is amended as follows:

260 Delete line 161

261 and insert:

262 the Legislature; creating s. 944.805, F.S.; defining
263 the terms "department" and "nonviolent offender";
264 requiring the Department of Corrections to develop and
265 administer a reentry program for nonviolent offenders
266 which is intended to divert nonviolent offenders from
267 long periods of incarceration; requiring that the
268 program include intensive substance abuse treatment
269 and rehabilitative programming; providing for the
270 minimum length of service in the program; providing
271 that any portion of a sentence before placement in the
272 program does not count as progress toward program



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273 completion; identifying permissible locations for the
274 operation of a reentry program; specifying eligibility
275 criteria for a nonviolent offender's participation in
276 the reentry program; requiring the department to
277 screen and select eligible offenders for the program
278 based on specified considerations; requiring the
279 department to notify the nonviolent offender's
280 sentencing court to obtain approval before the
281 nonviolent offender is placed in the reentry program;
282 requiring the department to notify the state attorney;
283 authorizing the state attorney to file objections to
284 placing the offender in the reentry program within a
285 specified period; authorizing the sentencing court to
286 consider certain factors when deciding whether to
287 approve an offender for placement in a reentry
288 program; requiring the sentencing court to notify the
289 department of the court's decision to approve or
290 disapprove the requested placement within a specified
291 period; requiring the nonviolent offender to undergo
292 an educational assessment and a complete substance
293 abuse assessment if admitted into the reentry program;
294 requiring the offender to be enrolled in an adult
295 education program in specified circumstances;
296 requiring that assessments of vocational skills and
297 future career education be provided to the offender;
298 requiring that certain reevaluation be made
299 periodically; providing that the nonviolent offender
300 is subject to the disciplinary rules of the
301 department; specifying the reasons for which the



302 offender may be terminated from the reentry program;
303 requiring that the department submit a report to the
304 sentencing court at least 30 days before the
305 nonviolent offender is scheduled to complete the
306 reentry program; specifying the issues to be addressed
307 in the report; authorizing a court to schedule a
308 hearing to consider any modification to an imposed
309 sentence; requiring the sentencing court to issue an
310 order modifying the sentence imposed and placing the
311 nonviolent offender on drug offender probation if the
312 nonviolent offender's performance is satisfactory;
313 authorizing the court to revoke probation and impose
314 the original sentence in specified circumstances;
315 authorizing the court to require the offender to
316 complete a postadjudicatory drug court program in
317 specified circumstances; directing the department to
318 implement the reentry program using available
319 resources; authorizing the department to enter into
320 contracts with qualified individuals, agencies, or
321 corporations for services for the reentry program;
322 requiring offenders to abide by department conduct
323 rules; authorizing the department to impose
324 administrative or protective confinement as necessary;
325 providing that the section does not create a right to
326 placement in the reentry program or any right to
327 placement or early release under supervision of any
328 type; providing that the section does not create a
329 cause of action related to the program; authorizing
330 the department to establish a system of incentives



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331 within the reentry program which the department may
332 use to promote participation in rehabilitative
333 programs and the orderly operation of institutions and
334 facilities; requiring the department to develop a
335 system for tracking recidivism, including, but not
336 limited to, rearrests and recommitment of nonviolent
337 offenders who successfully complete the reentry
338 program, and to report on recidivism in an annual
339 report; requiring the department to submit an annual
340 report to the Governor and Legislature detailing the
341 extent of implementation of the reentry program,
342 specifying requirements for the report; requiring the
343 department to adopt rules; providing that specified
344 provisions are not severable; amending ss. 39.407,
345 394.4612,