



940794

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2019	.	
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The Committee on Criminal Justice (Brandes) recommended the following:

2

Senate Amendment (with title amendment)

3

4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 948.0121, Florida Statutes, is created
7 to read:

8 948.0121 Conditional sentences for substance use or mental
9 health offenders.-

10

(1) DEFINITIONS.-As used in this section, the term:



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

12 (b) "Offender" means a person found guilty of a felony
13 offense and who receives a conditional sentence for substance
14 use or mental health offenders as prescribed in this section.

15 (2) CREATION.—A conditional sentence for substance use or
16 mental health offenders is established in accordance with s.
17 948.012. A court may sentence an offender to a conditional
18 sentence in accordance with this section. A conditional sentence
19 imposed by a court pursuant to this section does not confer to
20 the offender any right to release from incarceration and
21 placement on drug offender or mental health offender probation
22 unless such offender complies with all sentence requirements in
23 accordance with this section.

24 (3) ELIGIBILITY.—For an offender to receive a conditional
25 sentence under this section, he or she must be a nonviolent
26 offender who is in need of substance use or mental health
27 treatment and who does not pose a danger to the community. As
28 used in this subsection, the term "nonviolent offender" means an
29 offender who has never been convicted of, or pled guilty or no
30 contest to, the commission of, an attempt to commit, or a
31 conspiracy to commit, any of the following:

32 (a) A capital, life, or first degree felony.

33 (b) A second degree felony or third degree felony listed in
34 s. 775.084(1)(c)1.

35 (c) A violation of s. 784.021, s. 784.07, s. 827.03, or s.
36 843.01, or any offense that requires a person to register as a
37 sex offender in accordance with s. 943.0435.

38 (d) An offense for which the sentence was enhanced under s.
39 775.087.



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40 (e) An offense in another jurisdiction which would be an
41 offense described in this subsection, or which would have been
42 enhanced under s. 775.087, if that offense had been committed in
43 this state.

44 (4) SENTENCING REQUIREMENTS.—

45 (a) A court must order the offender as a part of a
46 conditional sentence for substance use or mental health
47 offenders, at a minimum, to:

48 1. Serve a term of imprisonment which must include an in-
49 prison treatment program for substance use, mental health, or
50 co-occurring disorders which is a minimum of 90 days in-custody
51 treatment and is administered by the department at a department
52 facility; and

53 2. Upon successful completion of such in-custody treatment
54 program, comply with a term of special offender probation for 24
55 months, which shall serve as a modification of the remainder of
56 his or her term of imprisonment, and must consist of:

57 a. Either drug offender or mental health probation, to be
58 determined by the court at the time of sentencing;

59 b. Any special conditions of probation ordered by the
60 sentencing court; and

61 c. Any recommendations made by the department in a
62 postrelease treatment plan for substance use or mental health
63 aftercare services.

64 (b) If the department finds that the offender is ineligible
65 or not appropriate for placement in an in-custody treatment
66 program for the reasons prescribed in subsection (7), or for any
67 other reason the department deems as good cause then the
68 offender shall serve the remainder of his or her term of



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69 imprisonment in the custody of the department.

70 (c) The appropriate type of special offender probation
71 shall be determined by the court at the time of sentencing based
72 upon the recommendation by the department in a presentence
73 investigation report.

74 (5) PRESENTENCE INVESTIGATION REPORT.—The court may order
75 the department to conduct a presentence investigation report in
76 accordance with s. 921.231 for any offender who the court
77 believes may be sentenced under this section to provide the
78 court with appropriate information to make a determination at
79 the time of sentencing of whether drug offender or mental health
80 probation is most appropriate for the offender.

81 (6) DEPARTMENT DUTIES.—The department:

82 (a) Shall administer treatment programs that comply with
83 the type of treatment required in this section.

84 (b) May develop and enter into performance-based contracts
85 with qualified individuals, agencies, or corporations to provide
86 any or all services necessary for the in-custody treatment
87 program. Such contracts may not be entered into or renewed
88 unless they offer a substantial savings to the department. The
89 department may establish a system of incentives in an in-custody
90 treatment program to promote offender participation in
91 rehabilitative programs and the orderly operation of
92 institutions and facilities.

93 (c) Shall provide a special training program for staff
94 members selected to administer or implement an in-custody
95 treatment program.

96 (d) Shall evaluate the offender's needs and develop a
97 postrelease treatment plan that includes substance use or mental



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98 health aftercare services.

99 (7) IN-PRISON TREATMENT.—

100 (a) The department shall give written notification of the
101 offender's admission into an in-prison treatment program portion
102 of the conditional sentence to the sentencing court, the state
103 attorney, the defense counsel for the offender, and any victim
104 of the offense committed by the offender.

105 (b) If, after evaluating an offender for custody and
106 classification status, the department determines at any point
107 during the term of imprisonment that an offender sentenced under
108 this section does not meet the criteria for placement in an in-
109 prison treatment program portion of the conditional sentence, as
110 determined in rule by the department, or that space is not
111 available for the offender's placement in an in-prison treatment
112 program, the department must immediately notify the court, the
113 state attorney, and the defense counsel that this portion of the
114 sentence is unsuccessfully served in accordance with paragraph
115 (4) (b) .

116 (c) If, after placement in an in-prison treatment program,
117 an offender is unable to participate due to medical concerns or
118 other reasons, he or she must be examined by qualified medical
119 personnel or qualified nonmedical personnel appropriate for the
120 offender's situation, as determined by the department. The
121 qualified personnel shall consult with the director of the in-
122 prison treatment program, and the director shall determine
123 whether the offender will continue with treatment or be
124 discharged from the program. If the director discharges the
125 offender from the treatment program, the department must
126 immediately notify the court, the state attorney, and the



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127 defense counsel that this portion of the sentence is
128 unsuccessfully served in accordance with paragraph (4) (b).

129 (d) If, after placement in an in-prison treatment program,
130 an offender is unable to participate due to disruptive behavior
131 or violations of any of the rules the department adopts to
132 implement this section, the director shall determine whether the
133 offender will continue with treatment or be discharged from the
134 program. If the director discharges the offender from the
135 treatment program, the department must immediately notify the
136 court, the state attorney, and the defense counsel that this
137 portion of the sentence is unsuccessfully served in accordance
138 with paragraph (4) (b).

139 (e) An offender participating in an in-prison treatment
140 program portion of his or her imprisonment must comply with any
141 additional requirements placed on the participants by the
142 department in rule. If an offender violates any of the rules, he
143 or she may have sanctions imposed, including loss of privileges,
144 restrictions, disciplinary confinement, forfeiture of gain-time
145 or the right to earn gain-time in the future, alteration of
146 release plans, termination from the in-prison treatment program,
147 or other program modifications in keeping with the nature and
148 gravity of the program violation. The department may place an
149 inmate participating in an in-prison treatment program in
150 administrative or protective confinement, as necessary.

151 (8) DRUG OFFENDER OR MENTAL HEALTH PROBATION.—

152 (a) Upon completion of the in-prison treatment program
153 ordered by the court, the offender shall be transitioned into
154 the community to begin his or her drug offender or mental health
155 probation for a term of 24 months, as ordered by the court at



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156 the time of sentencing in accordance with subsection (4).

157 (b) An offender on drug offender or mental health probation
158 following a conditional sentence imposed pursuant to this
159 section must comply with all standard conditions of drug
160 offender or mental health probation and any special condition of
161 probation ordered by the sentencing court, including
162 participation in an aftercare substance abuse or mental health
163 program, residence in a postrelease transitional residential
164 halfway house, or any other appropriate form of supervision or
165 treatment.

166 (c)1. If an offender placed on drug offender probation
167 resides in a county that has established a drug court or a
168 postadjudicatory drug court, the offender shall be monitored by
169 the court as a condition of drug offender probation.

170 2. If an offender placed on mental health offender
171 probation resides in a county that has established a mental
172 health court, the offender shall be monitored by the court as a
173 condition of mental health offender probation.

174 (d) While on probation pursuant to this subsection, the
175 offender shall pay all appropriate costs of probation to the
176 department. An offender who is determined to be financially able
177 shall also pay all costs of substance abuse or mental health
178 treatment. The court may impose on the offender additional
179 conditions requiring payment of restitution, court costs, fines,
180 community service, or compliance with other special conditions.

181 (e) An offender's violation of any condition or order may
182 result in revocation of probation by the court and imposition of
183 any sentence authorized under the law, with credit given for the
184 time already served in prison.



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185 (9) REPORTING.—The department shall develop a computerized
186 system to track data on the recidivism and recommitment of
187 offenders who have been sentenced to a conditional sentence for
188 substance use or mental health offenders. On October 1, 2020,
189 and on each October 1 thereafter, the department shall submit an
190 annual report of the results of the collected data to the
191 Governor, the President of the Senate, and the Speaker of the
192 House of Representatives.

193 (10) RULEMAKING.—The department shall adopt rules pursuant
194 to ss. 120.536(1) and 120.54 to administer this section.

195 Section 2. This act shall take effect October 1, 2019.

196

197 ===== T I T L E A M E N D M E N T =====

198 And the title is amended as follows:

199 Delete everything before the enacting clause
200 and insert:

201 A bill to be entitled
202 An act relating to sentencing; creating s. 948.0121,
203 F.S.; defining terms; creating a conditional sentence
204 for substance use and mental health offenders in
205 accordance with s. 948.012, F.S.; authorizing a court
206 to sentence an offender to a conditional sentence;
207 specifying requirements an offender must meet to be
208 eligible to receive a conditional sentence; requiring
209 that an eligible offender be a nonviolent offender;
210 defining the term "nonviolent offender"; providing
211 minimum sentencing requirements for a conditional
212 sentence; providing an exception to the court's order
213 of a conditional sentence; authorizing the sentencing



214 court to have the Department of Corrections provide a
215 presentence investigation report in accordance with s.
216 921.231, F.S., to provide the court with certain
217 information to determine the type of probation most
218 appropriate for the offender; requiring the department
219 to perform specified duties; authorizing the
220 department to enter into certain contracts; requiring
221 the department to provide written notification to
222 specified parties upon the offender's admission into
223 an in-prison treatment program; providing that the
224 department may find that an offender is not eligible
225 to participate in an in-prison treatment program under
226 certain circumstances; requiring written notification
227 from the department to certain parties if an offender
228 is terminated from or prevented from entering an in-
229 prison treatment program; requiring that an offender
230 be transitioned to probation upon the completion of
231 his or her in-prison treatment program; requiring an
232 offender to comply with specified terms of drug
233 offender or mental health probation; requiring the
234 offender to pay specified costs associated with his or
235 her probation; providing that certain violations may
236 result in revocation of probation by the court and
237 imposition of any sentence authorized by law;
238 requiring the department to develop a computerized
239 system to track certain data; requiring the
240 department, on a certain date and annually thereafter,
241 to submit an annual report to the Governor and the
242 Legislature; requiring the department to adopt certain



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rules; providing an effective date.