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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2015	.	
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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



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



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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,