

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED                        (Y/N)  
ADOPTED AS AMENDED                        (Y/N)  
ADOPTED W/O OBJECTION                        (Y/N)  
FAILED TO ADOPT                        (Y/N)  
WITHDRAWN                        (Y/N)  
OTHER                              

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation  
2 Subcommittee  
3 Representative Artiles offered the following:  
4

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Nonviolent offender reentry program.-

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

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

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

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

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

14 3. Who has never been convicted of an offense listed in s.  
15 775.082(9)(a)1.r. without regard to prior incarceration or  
16 release;

17 4. Who has never been convicted of an offense described in  
18 chapter 847 involving a minor or a depiction of a minor;

19 5. Who has never been convicted of an offense described in

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20 chapter 827;

21 6. Who has never been convicted of any offense described in  
22 ss. 784.07, 784.074, 784.075, 784.076, 784.08, 784.083 or  
23 784.085;

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

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

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

31 10. Who is not the subject of a domestic violence  
32 injunction currently in force.

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

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

45 (c) The nonviolent offender shall serve at least six  
46 months in the reentry program. The offender may not count any  
47 portion of his or her sentence served before placement in the

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48 reentry program as progress toward program completion.

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

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

57 (4) The department shall select eligible offenders for the  
58 reentry program. When selecting participants for the reentry  
59 program, the department shall be guided in its selection by its  
60 evaluation of the following considerations:

61 (a) The offender's history of disciplinary reports;

62 (b) The offender's criminal history, with particular  
63 scrutiny of any charges for offenses listed in (1) (b);

64 (c) The severity of the offender's addiction;

65 (d) The offender's history of criminal behavior related to  
66 substance abuse;

67 (e) Whether the offender has participated or requested to  
68 participate in any General Educational Development or other  
69 educational, technical, work, vocational, or self-rehabilitation  
70 program;

71 (f) The results of any risk assessment of the offender;

72 (g) The outcome of all past participation of the offender  
73 in substance abuse treatment programs;

74 (h) The possible rehabilitative benefits that substance  
75 abuse treatment, educational programming, vocational training,

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76 and other rehabilitative programming might have on the offender;

77 and

78 (i) The likelihood that participation in the program will  
79 produce the same deterrent effect, protect the public, save  
80 taxpayer dollars and prevent or delay recidivism to an equal or  
81 greater extent than completion of the sentence previously  
82 imposed.

83 (5) (a) If an offender volunteers to participate in the  
84 reentry program, meets the eligibility criteria, is selected by  
85 the department based on the considerations in subsection (4),  
86 and space is available in the reentry program, the department  
87 may request the sentencing court to approve the offender's  
88 participation in the reentry program. The request shall be made  
89 in writing and shall include a brief summation of the  
90 department's evaluation under subsection (4) and a recital of  
91 the documents or other information upon which the evaluation is  
92 based. All documents may be delivered to the sentencing court  
93 electronically.

94 (b)1. The department shall notify the state attorney that  
95 the offender is being considered for placement in the reentry  
96 program. The notice must include a copy of all documents  
97 provided with the request to the court. The notice and all  
98 documents may be delivered to the state attorney electronically  
99 and may take the form of a copy of an electronic delivery to the  
100 sentencing court.

101 2. The notice must also state that the state attorney may  
102 notify the sentencing court in writing of any objection the  
103 state attorney might have if the nonviolent offender is placed

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104 in the reentry program. The state attorney must notify the  
105 sentencing court of his or her objections within 15 days after  
106 receiving the notice. Whether or not an objection is raised, the  
107 state attorney may provide to the sentencing court any  
108 information supplemental or contrary to the information provided  
109 by the department that may assist the court in its  
110 determination.

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

126 (d) The sentencing court shall notify the department in  
127 writing of the court's decision to approve or disapprove the  
128 requested placement of the nonviolent offender no later than 30  
129 days after the court receives the department's request to place  
130 the offender in the reentry program. If the court approves, the  
131 notification shall list the factors upon which the court relied

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132 in approving the placement. Failure to notify the department of  
133 the court's decision within the 30-day period constitutes  
134 disapproval to place the offender into the reentry program.

135 (6) After the nonviolent offender is admitted into the  
136 reentry program, he or she shall undergo a full substance abuse  
137 assessment to determine his or her substance abuse treatment  
138 needs. The offender shall also have an educational assessment,  
139 which shall be accomplished using the Test of Adult Basic  
140 Education or any other testing instrument approved by the  
141 Department of Education. Each offender who has not obtained a  
142 high school diploma shall be enrolled in an adult education  
143 program designed to aid the offender in improving his or her  
144 academic skills and earn a high school diploma. Further  
145 assessments of the offender's vocational skills and future  
146 career education shall be provided to the offender as needed. A  
147 periodic reevaluation shall be made in order to assess the  
148 progress of each offender.

149 (7) (a) If a nonviolent offender in the reentry program  
150 becomes unmanageable, the department may revoke the offender's  
151 gain-time and place the offender in disciplinary confinement in  
152 accordance with department rule. Except as provided in paragraph  
153 (b), the offender shall be readmitted to the reentry program  
154 after completing the ordered discipline. Any period of time  
155 during which the offender is unable to participate in the  
156 reentry program shall be excluded from the specified time  
157 requirements in the reentry program.

158 (b) The department may terminate an offender from the  
159 reentry program if:

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160 1. The offender commits or threatens to commit a violent  
161 act;

162 2. The department determines that the offender is unable  
163 to participate in the reentry program due to the offender's  
164 medical condition;

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

166 4. The department reassigns the offender's classification  
167 status; or

168 5. The department determines that removing the offender  
169 from the reentry program is in the best interest of the offender  
170 or the security of the institution.

171 (8) (a) The department shall submit a report to the  
172 sentencing court at least 30 days before the nonviolent offender  
173 is scheduled to complete the reentry program. The report must  
174 describe the offender's performance in the reentry program and  
175 certify whether the performance is satisfactory. If the  
176 performance is satisfactory to the department, the court shall  
177 hold a hearing to determine:

178 1. Whether the offender's performance in the reentry  
179 program is satisfactory to the court;

180 2. Whether the public safety will be compromised by a  
181 modification of sentence;

182 3. Any appropriate modification of sentence which shall not  
183 be less than the minimum punishment required by law at the time  
184 of the commission of the offense or offenses for which the  
185 offender was sentenced.

186 (b) After consideration of all information available to the  
187 court, the court may issue an order modifying the sentence

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188 imposed and may place the offender on drug offender probation,  
189 as defined in s. 848.20(2), subject to the department's  
190 certification of the offender's successful completion of the  
191 remainder of the reentry program. The term of drug offender  
192 probation may include placement in a community residential or  
193 nonresidential substance abuse treatment facility under the  
194 jurisdiction of the department or the Department of Children and  
195 Family Services or any public or private entity providing such  
196 services. The order shall include findings showing that the  
197 requirements for resentencing under this section are satisfied  
198 and that the public safety will not be compromised. If the  
199 nonviolent offender violates the conditions of drug offender  
200 probation, the court may revoke probation and impose any  
201 sentence that it might have originally imposed.

202 (c) If an offender being released pursuant to paragraph  
203 (b) intends to reside in a county that has established a  
204 postadjudicatory drug court program as described in s. 397.334,  
205 Florida Statutes, the sentencing court may require the offender  
206 to successfully complete the postadjudicatory drug court program  
207 as a condition of drug offender probation after considering the  
208 county program's record of helping offenders avoid recidivism.  
209 The original sentencing court shall relinquish jurisdiction of  
210 the offender's case to the postadjudicatory drug court program  
211 until the offender is no longer active in the program, the case  
212 is returned to the sentencing court due to the offender's  
213 termination from the program for failure to comply with the  
214 terms thereof, or the offender's sentence is completed. If  
215 transferred to a postadjudicatory drug court program, the

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216 offender shall comply with all conditions and orders of the  
217 program.

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

220 (10) The department shall submit an annual report to the  
221 Governor, the President of the Senate, and the Speaker of the  
222 House of Representatives detailing the extent of implementation  
223 of the reentry program, the number of participants selected,  
224 approved and successfully completing the program, a reasonable  
225 estimate or description of the additional public costs incurred  
226 and any public funds saved with respect to each participant, a  
227 brief description of each sentence modification and a brief  
228 description of the subsequent criminal history, if any, of each  
229 participant following any modification of sentence under this  
230 section. The report shall also outline future goals and any  
231 recommendation the department has for future legislative action.

232 (11) The department may enter into performance-based  
233 contracts with qualified individuals, agencies, or corporations  
234 for the provision of any or all of the services for the reentry  
235 program provided that no offender may be released from the  
236 custody of the department under this section except pursuant to  
237 a judicial order modifying a sentence.

238 (12) A nonviolent offender in the reentry program is  
239 subject to rules of conduct established by the department and  
240 may have sanctions imposed, including loss of privileges,  
241 restrictions, disciplinary confinement, alteration of release  
242 plans, or other program modifications in keeping with the nature  
243 and gravity of the program violation. Administrative or

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244 protective confinement, as necessary, may be imposed.

245 (13) This section does not create or confer any right to  
246 any inmate to placement in the reentry program or any right to  
247 placement or early release under supervision of any type. No  
248 inmate may have a cause of action under this section against the  
249 department, a court, or the state attorney related to the  
250 reentry program. Nothing in this subsection is severable from  
251 the remaining provisions of this section. If this subsection is  
252 determined by any state or federal court to be not fully  
253 enforceable this section shall stand repealed.

254 (14) The department may establish a system of incentives  
255 within the reentry program which the department may use to  
256 promote participation in rehabilitative programs and the orderly  
257 operation of institutions and facilities.

258 (15) The department shall develop a system for tracking  
259 recidivism, including, but not limited to, rearrests and  
260 recommitment of nonviolent offenders who successfully complete  
261 the reentry program, and shall report the recidivism rate in its  
262 annual report of the program.

263 (16) The department shall adopt rules pursuant to ss.  
264 120.536(1) and 120.54, Florida Statutes, as are necessary to  
265 administer the reentry program.

266 Section 2. This act shall take effect October 1, 2012.

270 -----  
271 **T I T L E A M E N D M E N T**

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272 Remove the entire title and insert:  
273 An act relating to inmate reentry; defining the terms  
274 "department" and "nonviolent offender"; directing the  
275 Department of Corrections to develop and administer a  
276 reentry program for nonviolent offenders which is  
277 intended to divert nonviolent offenders from long  
278 periods of incarceration; requiring that the program  
279 include intensive substance abuse treatment and  
280 rehabilitative programming; providing for the minimum  
281 length of service in the program; providing that any  
282 portion of a sentence before placement in the program  
283 does not count as progress toward program completion;  
284 specifying eligibility criteria for a nonviolent  
285 offender to be placed into the reentry program;  
286 directing the court to screen and select eligible  
287 offenders for the program based on specified  
288 considerations; directing the department to notify the  
289 nonviolent offender's sentencing court to obtain  
290 approval before the nonviolent offender is placed into  
291 the reentry program; requiring the department to  
292 notify the state attorney; authorizing the state  
293 attorney to file objections to placing the offender  
294 into the reentry program within a specified period;  
295 requiring the sentencing court to notify the  
296 department of the court's decision to approve or  
297 disapprove the requested placement within a specified  
298 period; providing that failure of the court to timely  
299 notify the department of the court's decision

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300 constitutes disapproval of the requested placement;  
301 requiring the nonviolent offender to undergo an  
302 education assessment and a full substance abuse  
303 assessment if admitted into the reentry program;  
304 requiring the offender to be enrolled in an adult  
305 education program in specified circumstances;  
306 requiring that assessments of vocational skills and  
307 future career education be provided to the offender;  
308 requiring that certain reevaluation be made  
309 periodically; providing that the nonviolent offender  
310 is subject to the disciplinary rules of the  
311 department; specifying the reasons for which the  
312 offender may be terminated from the reentry program;  
313 requiring that the department submit a report to the  
314 sentencing court at least 30 days before the  
315 nonviolent offender is scheduled to complete the  
316 reentry program; setting forth the issues to be  
317 addressed in the report; requiring the sentencing  
318 court to hold a hearing to consider modifying the  
319 sentence imposed and authorizing the court to place  
320 the nonviolent offender on drug offender probation if  
321 the nonviolent offender's performance is satisfactory;  
322 authorizing the court to revoke probation and impose  
323 the original sentence in specified circumstances;  
324 authorizing the court to require the offender to  
325 complete a postadjudicatory drug court program in  
326 specified circumstances; directing the department to  
327 implement the reentry program using available

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328 resources; requiring the department to submit an  
329 annual report to the Governor and Legislature  
330 detailing the extent of implementation of the reentry  
331 program, specifying information to be provided and  
332 outlining future goals and recommendations;  
333 authorizing the department to enter into contracts  
334 with qualified individuals, agencies, or corporations  
335 for services for the reentry program; authorizing the  
336 department to impose administrative or protective  
337 confinement as necessary; authorizing the department  
338 to establish a system of incentives within the reentry  
339 program which the department may use to promote  
340 participation in rehabilitative programs and the  
341 orderly operation of institutions and facilities;  
342 providing that the section does not create a right to  
343 placement in the reentry program or any right to  
344 placement or early release under supervision of any  
345 type; providing that the section does not create a  
346 cause of action related to the program; directing the  
347 department to develop a system for tracking  
348 recidivism, including, but not limited to, rearrests  
349 and recommitment of nonviolent offenders who  
350 successfully complete the reentry program, and to  
351 report on recidivism in its annual report of the  
352 program; directing the department to adopt rules;  
353 providing an effective date.; providing an effective  
354 date.

355