

By the Committee on Criminal Justice; and Senator Brandes

591-03159-19

20191074c1

1                   A bill to be entitled  
2           An act relating to sentencing; creating s. 948.0121,  
3           F.S.; defining terms; creating a conditional sentence  
4           for substance use and mental health offenders in  
5           accordance with s. 948.012, F.S.; authorizing a court  
6           to sentence an offender to a conditional sentence;  
7           specifying requirements an offender must meet to be  
8           eligible to receive a conditional sentence; requiring  
9           that an eligible offender be a nonviolent offender;  
10          defining the term "nonviolent offender"; providing  
11          minimum sentencing requirements for a conditional  
12          sentence; providing an exception to the court's order  
13          of a conditional sentence; authorizing the sentencing  
14          court to have the Department of Corrections provide a  
15          presentence investigation report in accordance with s.  
16          921.231, F.S., to provide the court with certain  
17          information to determine the type of probation most  
18          appropriate for the offender; requiring the department  
19          to perform specified duties; authorizing the  
20          department to enter into certain contracts; requiring  
21          the department to provide written notification to  
22          specified parties upon the offender's admission into  
23          an in-prison treatment program; providing that the  
24          department may find that an offender is not eligible  
25          to participate in an in-prison treatment program under  
26          certain circumstances; requiring written notification  
27          from the department to certain parties if an offender  
28          is terminated from or prevented from entering an in-  
29          prison treatment program; requiring that an offender

591-03159-19

20191074c1

30 be transitioned to probation upon the completion of  
31 his or her in-prison treatment program; requiring an  
32 offender to comply with specified terms of drug  
33 offender or mental health probation; requiring the  
34 offender to pay specified costs associated with his or  
35 her probation; providing that certain violations may  
36 result in revocation of probation by the court and  
37 imposition of any sentence authorized by law;  
38 requiring the department to develop a computerized  
39 system to track certain data; requiring the  
40 department, on a certain date and annually thereafter,  
41 to submit an annual report to the Governor and the  
42 Legislature; requiring the department to adopt certain  
43 rules; providing an effective date.

44  
45 Be It Enacted by the Legislature of the State of Florida:

46  
47 Section 1. Section 948.0121, Florida Statutes, is created  
48 to read:

49 948.0121 Conditional sentences for substance use or mental  
50 health offenders.-

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

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

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

56 (2) CREATION.-A conditional sentence for substance use or  
57 mental health offenders is established in accordance with s.  
58 948.012. A court may sentence an offender to a conditional

591-03159-19

20191074c1

59 sentence in accordance with this section. A conditional sentence  
60 imposed by a court pursuant to this section does not confer to  
61 the offender any right to release from incarceration and  
62 placement on drug offender or mental health offender probation  
63 unless such offender complies with all sentence requirements in  
64 accordance with this section.

65 (3) ELIGIBILITY.—For an offender to receive a conditional  
66 sentence under this section, he or she must be a nonviolent  
67 offender who is in need of substance use or mental health  
68 treatment and who does not pose a danger to the community. As  
69 used in this subsection, the term “nonviolent offender” means an  
70 offender who has never been convicted of, or pled guilty or no  
71 contest to, the commission of, an attempt to commit, or a  
72 conspiracy to commit, any of the following:

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

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

76 (c) A violation of s. 784.021, s. 784.07, s. 827.03, or s.  
77 843.01, or any offense that requires a person to register as a  
78 sex offender in accordance with s. 943.0435.

79 (d) An offense for which the sentence was enhanced under s.  
80 775.087.

81 (e) An offense in another jurisdiction which would be an  
82 offense described in this subsection, or which would have been  
83 enhanced under s. 775.087, if that offense had been committed in  
84 this state.

85 (4) SENTENCING REQUIREMENTS.—

86 (a) A court must order the offender as a part of a  
87 conditional sentence for substance use or mental health

591-03159-19

20191074c1

88 offenders, at a minimum, to:

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

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

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

100 b. Any special conditions of probation ordered by the  
101 sentencing court; and

102 c. Any recommendations made by the department in a  
103 postrelease treatment plan for substance use or mental health  
104 aftercare services.

105 (b) If the department finds that the offender is ineligible  
106 or not appropriate for placement in an in-custody treatment  
107 program for the reasons prescribed in subsection (7), or for any  
108 other reason the department deems as good cause then the  
109 offender shall serve the remainder of his or her term of  
110 imprisonment in the custody of the department.

111 (c) The appropriate type of special offender probation  
112 shall be determined by the court at the time of sentencing based  
113 upon the recommendation by the department in a presentence  
114 investigation report.

115 (5) PRESENTENCE INVESTIGATION REPORT.—The court may order  
116 the department to conduct a presentence investigation report in

591-03159-19

20191074c1

117 accordance with s. 921.231 for any offender who the court  
118 believes may be sentenced under this section to provide the  
119 court with appropriate information to make a determination at  
120 the time of sentencing of whether drug offender or mental health  
121 probation is most appropriate for the offender.

122 (6) DEPARTMENT DUTIES.—The department:

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

125 (b) May develop and enter into performance-based contracts  
126 with qualified individuals, agencies, or corporations to provide  
127 any or all services necessary for the in-custody treatment  
128 program. Such contracts may not be entered into or renewed  
129 unless they offer a substantial savings to the department. The  
130 department may establish a system of incentives in an in-custody  
131 treatment program to promote offender participation in  
132 rehabilitative programs and the orderly operation of  
133 institutions and facilities.

134 (c) Shall provide a special training program for staff  
135 members selected to administer or implement an in-custody  
136 treatment program.

137 (d) Shall evaluate the offender's needs and develop a  
138 postrelease treatment plan that includes substance use or mental  
139 health aftercare services.

140 (7) IN-PRISON TREATMENT.—

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

591-03159-19

20191074c1

146 (b) If, after evaluating an offender for custody and  
147 classification status, the department determines at any point  
148 during the term of imprisonment that an offender sentenced under  
149 this section does not meet the criteria for placement in an in-  
150 prison treatment program portion of the conditional sentence, as  
151 determined in rule by the department, or that space is not  
152 available for the offender's placement in an in-prison treatment  
153 program, the department must immediately notify the court, the  
154 state attorney, and the defense counsel that this portion of the  
155 sentence is unsuccessfully served in accordance with paragraph  
156 (4) (b) .

157 (c) If, after placement in an in-prison treatment program,  
158 an offender is unable to participate due to medical concerns or  
159 other reasons, he or she must be examined by qualified medical  
160 personnel or qualified nonmedical personnel appropriate for the  
161 offender's situation, as determined by the department. The  
162 qualified personnel shall consult with the director of the in-  
163 prison treatment program, and the director shall determine  
164 whether the offender will continue with treatment or be  
165 discharged from the program. If the director discharges the  
166 offender from the treatment program, the department must  
167 immediately notify the court, the state attorney, and the  
168 defense counsel that this portion of the sentence is  
169 unsuccessfully served in accordance with paragraph (4) (b) .

170 (d) If, after placement in an in-prison treatment program,  
171 an offender is unable to participate due to disruptive behavior  
172 or violations of any of the rules the department adopts to  
173 implement this section, the director shall determine whether the  
174 offender will continue with treatment or be discharged from the

591-03159-19

20191074c1

175 program. If the director discharges the offender from the  
176 treatment program, the department must immediately notify the  
177 court, the state attorney, and the defense counsel that this  
178 portion of the sentence is unsuccessfully served in accordance  
179 with paragraph (4) (b).

180 (e) An offender participating in an in-prison treatment  
181 program portion of his or her imprisonment must comply with any  
182 additional requirements placed on the participants by the  
183 department in rule. If an offender violates any of the rules, he  
184 or she may have sanctions imposed, including loss of privileges,  
185 restrictions, disciplinary confinement, forfeiture of gain-time  
186 or the right to earn gain-time in the future, alteration of  
187 release plans, termination from the in-prison treatment program,  
188 or other program modifications in keeping with the nature and  
189 gravity of the program violation. The department may place an  
190 inmate participating in an in-prison treatment program in  
191 administrative or protective confinement, as necessary.

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

193 (a) Upon completion of the in-prison treatment program  
194 ordered by the court, the offender shall be transitioned into  
195 the community to begin his or her drug offender or mental health  
196 probation for a term of 24 months, as ordered by the court at  
197 the time of sentencing in accordance with subsection (4).

198 (b) An offender on drug offender or mental health probation  
199 following a conditional sentence imposed pursuant to this  
200 section must comply with all standard conditions of drug  
201 offender or mental health probation and any special condition of  
202 probation ordered by the sentencing court, including  
203 participation in an aftercare substance abuse or mental health

591-03159-19

20191074c1

204 program, residence in a postrelease transitional residential  
205 halfway house, or any other appropriate form of supervision or  
206 treatment.

207 (c)1. If an offender placed on drug offender probation  
208 resides in a county that has established a drug court or a  
209 postadjudicatory drug court, the offender shall be monitored by  
210 the court as a condition of drug offender probation.

211 2. If an offender placed on mental health offender  
212 probation resides in a county that has established a mental  
213 health court, the offender shall be monitored by the court as a  
214 condition of mental health offender probation.

215 (d) While on probation pursuant to this subsection, the  
216 offender shall pay all appropriate costs of probation to the  
217 department. An offender who is determined to be financially able  
218 shall also pay all costs of substance abuse or mental health  
219 treatment. The court may impose on the offender additional  
220 conditions requiring payment of restitution, court costs, fines,  
221 community service, or compliance with other special conditions.

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

226 (9) REPORTING.—The department shall develop a computerized  
227 system to track data on the recidivism and recommitment of  
228 offenders who have been sentenced to a conditional sentence for  
229 substance use or mental health offenders. On October 1, 2020,  
230 and on each October 1 thereafter, the department shall submit an  
231 annual report of the results of the collected data to the  
232 Governor, the President of the Senate, and the Speaker of the



591-03159-19

20191074c1

233 House of Representatives.

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

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