

1                   A bill to be entitled  
2           An act relating to sentencing; creating s. 948.0121,  
3           F.S.; providing definitions; creating conditional  
4           sentences for substance use and mental health  
5           offenders; specifying eligibility requirements;  
6           providing minimum sentencing requirements; providing  
7           an exception to a conditional sentence; authorizing a  
8           presentence investigation report; specifying duties of  
9           the Department of Corrections; authorizing the  
10          department to enter into certain contracts; requiring  
11          the department to provide written notice to specified  
12          parties upon the offender's admission into an in-  
13          prison treatment program; providing that the  
14          department may find that an offender is ineligible for  
15          an in-prison program under certain circumstances;  
16          requiring written notice to certain parties if an  
17          offender is terminated from or prevented from entering  
18          an in-prison program; requiring that an offender be  
19          transitioned to probation upon the completion of an  
20          in-prison program; requiring an offender to comply  
21          with specified terms of probation; requiring the  
22          offender to pay specified costs; providing that  
23          certain violations may result in revocation of  
24          probation and imposition of any authorized sentence;  
25          requiring the department to develop a computerized

26 tracking system; requiring the department make an  
 27 annual report; requiring rulemaking; providing an  
 28 effective date.

30 Be It Enacted by the Legislature of the State of Florida:

32 Section 1. Section 948.0121, Florida Statutes, is created  
 33 to read:

34 948.0121 Conditional sentences for substance use or mental  
 35 health offenders.-

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

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

38 (b) "Offender" means a person who is convicted of a felony  
 39 offense and who receives a conditional sentence for substance  
 40 use or mental health offenders as prescribed in this section.

41 (2) CREATION.-A conditional sentence for offenders is  
 42 established in accordance with s. 948.012. A court may sentence  
 43 an offender to a conditional sentence in accordance with this  
 44 section. A conditional sentence imposed by a court under this  
 45 section does not confer to the offender any right to release  
 46 from incarceration and placement on drug offender or mental  
 47 health offender probation unless the offender complies with all  
 48 sentence requirements in accordance with this section.

49 (3) ELIGIBILITY.-For an offender to receive a conditional  
 50 sentence under this section, he or she must be a nonviolent

51 offender who is in need of substance use or mental health  
52 treatment and who does not pose a danger to the community. As  
53 used in this subsection, the term "nonviolent offender" means an  
54 offender who has never been convicted of, or pled guilty or no  
55 contest to, the commission of, an attempt to commit, or a  
56 conspiracy to commit, any of the following:

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

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

60 (c) A violation of s. 784.021, s. 784.07, s. 827.03, or s.  
61 843.01 or any offense that requires a person to register as a  
62 sex offender in accordance with s. 943.0435.

63 (d) An offense for which the sentence was enhanced under  
64 s. 775.087.

65 (e) An offense in another jurisdiction which would be an  
66 offense described in this subsection, or which would have been  
67 enhanced under s. 775.087 if the offense had been committed in  
68 this state.

69 (4) SENTENCING REQUIREMENTS.—

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

73 1. Serve a term of imprisonment which must include an in-  
74 prison treatment program for substance use, mental health, or  
75 co-occurring disorders which is a minimum of 90 days custodial

76 treatment and is administered by the department at a department  
77 facility.

78 2. Upon successful completion of a custodial treatment  
79 program, comply with a term of special offender probation for 24  
80 months, which shall serve as a modification of the remainder of  
81 his or her term of imprisonment, and must consist of:

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

84 b. Any special conditions of probation ordered by the  
85 sentencing court.

86 c. Any recommendations made by the department in a  
87 postrelease treatment plan for substance use or mental health  
88 aftercare services.

89 (b) If the department finds that the offender is  
90 ineligible or not appropriate for placement in a custodial  
91 treatment program for the reasons prescribed in subsection (7),  
92 or for any other reason the department deems as good cause then  
93 the offender shall serve the remainder of his or her term of  
94 imprisonment in the custody of the department.

95 (c) The appropriate type of special offender probation  
96 shall be determined by the court at the time of sentencing based  
97 upon the recommendation by the department in a presentence  
98 investigation report.

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

101 accordance with s. 921.231 for an offender who the court  
102 believes may be sentenced under this section to provide the  
103 court with appropriate information to make a determination at  
104 the time of sentencing of whether drug offender or mental health  
105 probation is most appropriate for the offender.

106 (6) DEPARTMENT DUTIES.—The department:

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

109 (b) May develop and enter into performance-based contracts  
110 with qualified individuals, agencies, or corporations to provide  
111 any or all services necessary for the custodial treatment  
112 program. Such contracts may only be entered into or renewed if  
113 the contracts offer a substantial savings to the department. The  
114 department may establish a system of incentives in a custodial  
115 treatment program to promote offender participation in  
116 rehabilitative programs and the orderly operation of  
117 institutions and facilities.

118 (c) Shall provide a special training program for staff  
119 members selected to administer or implement a custodial  
120 treatment program.

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

124 (7) IN-PRISON TREATMENT.—

125 (a) The department shall give written notification of the

126 offender's admission into an in-prison treatment program portion  
127 of the conditional sentence to the sentencing court, the state  
128 attorney, the defense counsel for the offender, and any victim  
129 of the offense committed by the offender.

130 (b) If, after evaluating an offender for custody and  
131 classification status, the department determines at any point  
132 during the term of imprisonment that an offender sentenced under  
133 this section does not meet the criteria for placement in an in-  
134 prison treatment program portion of the conditional sentence, as  
135 determined in rule by the department, or that space is not  
136 available for the offender's placement in an in-prison treatment  
137 program, the department must immediately notify the court, the  
138 state attorney, and the defense counsel that this portion of the  
139 sentence is unsuccessfully served in accordance with paragraph  
140 (4) (b).

141 (c) If, after placement in an in-prison treatment program,  
142 an offender is unable to participate due to medical concerns or  
143 other reasons, he or she must be examined by qualified medical  
144 personnel or qualified nonmedical personnel appropriate for the  
145 offender's situation, as determined by the department. The  
146 qualified personnel shall consult with the director of the in-  
147 prison treatment program, and the director shall determine  
148 whether the offender will continue with treatment or be  
149 discharged from the program. If the director discharges the  
150 offender from the treatment program, the department must

151 immediately notify the court, the state attorney, and the  
152 defense counsel that this portion of the sentence is  
153 unsuccessfully served in accordance with paragraph (4) (b).

154 (d) If, after placement in an in-prison treatment program,  
155 an offender is unable to participate due to disruptive behavior  
156 or violations of any of the rules the department adopts to  
157 implement this section, the director shall determine whether the  
158 offender will continue with treatment or be discharged from the  
159 program. If the director discharges the offender from the  
160 treatment program, the department must immediately notify the  
161 court, the state attorney, and the defense counsel that this  
162 portion of the sentence is unsuccessfully served in accordance  
163 with paragraph (4) (b).

164 (e) An offender participating in an in-prison treatment  
165 program portion of his or her imprisonment must comply with any  
166 additional requirements placed on the participants by the  
167 department in rule. If an offender violates a rule, he or she  
168 may have sanctions imposed, including loss of privileges,  
169 restrictions, disciplinary confinement, forfeiture of gain-time  
170 or the right to earn gain-time in the future, alteration of  
171 release plans, termination from the in-prison treatment program,  
172 or other program modifications in keeping with the nature and  
173 gravity of the rule violation. The department may place an  
174 inmate participating in an in-prison treatment program in  
175 administrative or protective confinement, as necessary.

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

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

182 (b) An offender on drug offender or mental health  
183 probation following a conditional sentence imposed under this  
184 section must comply with all standard conditions of his or her  
185 probation and any special condition of probation ordered by the  
186 sentencing court, including participation in an aftercare  
187 substance abuse or mental health program, residence in a  
188 postrelease transitional residential halfway house, or any other  
189 appropriate form of supervision or treatment.

190 (c)1. If an offender placed on drug offender probation  
191 resides in a county that has established a drug court or a  
192 postadjudicatory drug court, the offender shall be monitored by  
193 the court as a condition of drug offender probation.

194 2. If an offender placed on mental health offender  
195 probation resides in a county that has established a mental  
196 health court, the offender shall be monitored by the court as a  
197 condition of mental health offender probation.

198 (d) While on probation pursuant to this subsection, the  
199 offender shall pay all appropriate costs of probation to the  
200 department. An offender who is determined to be financially able

201 shall also pay all costs of substance abuse or mental health  
202 treatment. The court may impose on the offender additional  
203 conditions requiring payment of restitution, court costs, fines,  
204 community service, or compliance with other special conditions.

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

209 (9) REPORTING.—The department shall develop a computerized  
210 system to track data on the recidivism and recommitment of  
211 offenders who have been sentenced to a conditional sentence for  
212 substance use or mental health offenders. On October 1, 2021,  
213 and on each October 1 thereafter, the department shall submit an  
214 annual report of the results of the collected data to the  
215 Governor, the President of the Senate, and the Speaker of the  
216 House of Representatives.

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

219 Section 2. This act shall take effect October 1, 2020.