

Bill No. CS for CS for SB 1814

Amendment No. Barcode 092090

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Burt moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

16 and insert:

17 Section 1. (1) It is the intent of the Legislature to

18 implement treatment-based drug court programs in each judicial

19 circuit in an effort to reduce crime and recidivism, abuse and

20 neglect cases, and family dysfunction by breaking the cycle of

21 addiction which is the most predominant cause of cases

22 entering the justice system. The Legislature recognizes that

23 the integration of judicial supervision, treatment,

24 accountability, and sanctions greatly increases the

25 effectiveness of substance abuse treatment. The Legislature

26 also seeks to ensure that there is a coordinated, integrated,

27 and multidisciplinary response to the substance abuse problem

28 in this state, with special attention given to creating

29 partnerships between the public and private sectors and to the

30 coordinated, supported, and integrated delivery of

31 multiple-system services for substance abusers, including a

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1 multiagency team approach to service delivery.

2 (2) Each judicial circuit shall establish a model of a
3 treatment-based drug court program under which persons in the
4 justice system assessed with a substance abuse problem will be
5 processed in such a manner as to appropriately address the
6 severity of the identified substance abuse problem through
7 treatment plans tailored to the individual needs of the
8 participant. These treatment-based drug court program models
9 may be established in the misdemeanor, felony, family,
10 delinquency, and dependency divisions of the judicial
11 circuits. It is the intent of the Legislature to encourage
12 the Department of Corrections, the Department of Children and
13 Family Services, the Department of Juvenile Justice, the
14 Department of Health, the Department of Law Enforcement, and
15 such other agencies, local governments, law enforcement
16 agencies, and other interested public or private sources to
17 support the creation and establishment of these
18 problem-solving court programs. Participation in the
19 treatment-based drug court programs does not divest any public
20 or private agency of its responsibility for a child or adult,
21 but allows these agencies to better meet their needs through
22 shared responsibility and resources.

23 (3) The treatment-based drug court programs shall
24 include therapeutic jurisprudence principles and adhere to the
25 following 10 key components, recognized by the Drug Courts
26 Program Office of the Office of Justice Programs of the United
27 States Department of Justice and adopted by the Florida
28 Supreme Court Treatment-Based Drug Court Steering Committee:

29 (a) Drug court programs integrate alcohol and other
30 drug treatment services with justice system case processing.

31 (b) Using a nonadversarial approach, prosecution and

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1 defense counsel promote public safety while protecting
2 participants' due process rights.

3 (c) Eligible participants are identified early and
4 promptly placed in the drug court program.

5 (d) Drug court programs provide access to a continuum
6 of alcohol, drug, and other related treatment and
7 rehabilitation services.

8 (e) Abstinence is monitored by frequent testing for
9 alcohol and other drugs.

10 (f) A coordinated strategy governs drug court program
11 responses to participants' compliance.

12 (g) Ongoing judicial interaction with each drug court
13 program participant is essential.

14 (h) Monitoring and evaluation measure the achievement
15 of program goals and gauge program effectiveness.

16 (i) Continuing interdisciplinary education promotes
17 effective drug court program planning, implementation, and
18 operations.

19 (j) Forging partnerships among drug court programs,
20 public agencies, and community-based organizations generates
21 local support and enhances drug court programs effectiveness.

22 (4) Treatment-based drug court programs may include
23 pretrial intervention programs as provided in ss. 948.08,
24 948.16, and 985.306, Florida Statutes.

25 (5)(a) The Florida Association of Drug Court Program
26 Professionals is created. The membership of the association
27 may consist of drug court program practitioners who comprise
28 the multidisciplinary drug court program team, including, but
29 not limited to, judges, state attorneys, defense counsel, drug
30 court program coordinators, probation officers, law
31 enforcement officers, members of the academic community, and

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1 treatment professionals. Membership in the association shall
2 be voluntary.

3 (b) The association shall annually elect a chair whose
4 duty is to solicit recommendations from members on issues
5 relating to the expansion, operation, and institutionalization
6 of drug courts programs. The chair is responsible for
7 providing the association's recommendations to the Supreme
8 Court Treatment-Based Drug Court Steering Committee, and shall
9 submit a report each year, on or before October 1, to the
10 steering committee.

11 Section 2. Subsection (5) is added to section 910.035,
12 Florida Statutes, to read:

13 910.035 Transfer from county for plea and sentence.--

14 (5) Any defendant eligible for participation in a drug
15 court treatment program pursuant to s. 948.08(6) may be
16 eligible to have the case transferred to a county other than
17 that in which the charge arose, if the drug court program
18 agrees and the following conditions are met:

19 (a) The authorized representative of the drug court
20 program of the county requesting to transfer the case shall
21 consult with the authorized representative of the drug court
22 program in the county to which transfer is desired.

23 (b) If approval for transfer is received from all
24 parties, the trial court shall enter a transfer order
25 directing the clerk to transfer the case to the county which
26 has accepted the defendant into its drug court program.

27 (c) The transfer order shall include a copy of the
28 probable cause affidavit, any charging documents in the case,
29 all reports, witness statements, test results, evidence lists,
30 and other documents in the case, the defendant's mailing
31 address and phone number, and the defendant's written

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1 statement in which the defendant, after consultation with his
2 or her attorney has agreed to abide by the rules and
3 procedures of the receiving county's drug court program, has
4 knowingly and intelligently waived his or her right to a
5 speedy trial for the period of his or her diversion, has
6 waived his or her right to trial in the county where the
7 offense was committed, and has consented to disposition of his
8 or her case in the jurisdiction to which the case is
9 transferred.

10 (d) After the transfer takes place, the clerk shall
11 set the matter for a hearing before the drug court program
12 judge and the court shall ensure the defendant's entry into
13 the drug court program.

14 (e) The jurisdiction to which the case has been
15 transferred shall dispose of the case pursuant to s.
16 948.08(6)(b) and (c). If the defendant does not complete the
17 drug court program successfully, the case shall be prosecuted
18 as determined by the state attorneys of the sending and
19 receiving counties.

20 Section 3. Paragraph (a) of subsection (6) of section
21 948.08, Florida Statutes, is amended to read:

22 (6)(a) Notwithstanding any provision of this section,
23 a person who is charged with a felony of the second or third
24 degree for purchase or possession of a controlled substance
25 under chapter 893, tampering with evidence, solicitation for
26 purchase, obtaining a prescription by fraud, and who has not
27 been charged with a crime, involving violence, including but
28 not limited to, murder, sexual battery, robbery, car jacking,
29 home-invasion robbery, or any other crime involving violence
30 and who has not previously been convicted of a felony nor been
31 admitted to a felony pretrial program referred to in this

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1 section, is eligible for admission into a pretrial substance
2 abuse education and treatment intervention program approved by
3 the chief judge of the circuit, for a period of not less than
4 1 year in duration, upon motion of either party or the courts
5 own motion, except:

6 1. If a defendant was previously offered admission to
7 a pretrial substance abuse education and treatment
8 intervention program at any time prior to trial and the
9 defendant rejected that offer on the record, then the court or
10 the state attorney may deny the defendant's admission to such
11 a program.

12 2. If the state attorney believes that the facts and
13 circumstances of the case suggest the defendant's involvement
14 in the dealing and selling of controlled substances, the court
15 shall hold a preadmission hearing. If the state attorney
16 establishes, by a preponderance of the evidence at such
17 hearing, that the defendant was involved in the dealing or
18 selling of controlled substances, the court shall deny the
19 defendant's admission into a pretrial intervention program.

20 (7) The chief judge in each circuit may appoint an
21 advisory committee for the pretrial intervention program
22 composed of the chief judge or his or her designee, who shall
23 serve as chair; the state attorney, the public defender, and
24 the program administrator, or their designees; and such other
25 persons as the chair deems appropriate. The advisory
26 committee may not designate any defendant eligible for a
27 pretrial intervention program for any offense not listed under
28 section 948.08(6)(a) without the state attorney's
29 recommendation and approval. The committee may also include
30 persons representing any other agencies to which persons
31 released to the pretrial intervention program may be referred.

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1 Section 4. Section 948.16, Florida Statutes, is
2 created to read:

3 948.16 Misdemeanor pretrial substance abuse education
4 and treatment intervention program.--

5 (1) A person who is charged with a misdemeanor for
6 possession of a controlled substance or drug paraphernalia
7 under chapter 893, and who has not previously been convicted
8 of a felony nor been admitted to a pretrial intervention
9 program, is eligible for admission into a misdemeanor pretrial
10 substance abuse education and treatment intervention program
11 approved by the chief judge of the circuit, for a period based
12 on the program requirements and the treatment plan for the
13 offender, upon motion of either party or the court's own
14 motion, except, if the state attorney believes the facts and
15 circumstances of the case suggest the defendant is involved in
16 dealing and selling controlled substances, the court shall
17 hold a preadmission hearing. If the state attorney
18 establishes, by a preponderance of the evidence at such
19 hearing, that the defendant was involved in dealing or selling
20 controlled substances, the court shall deny the defendant's
21 admission into the pretrial intervention program.

22 (2) A defendant may not be released to the pretrial
23 intervention program unless, after consultation with his or
24 her attorney, he or she has voluntarily agreed to such program
25 and has knowingly and intelligently waived his or her right to
26 a speedy trial for the period of his or her diversion.

27 (3) At the end of the pretrial intervention period,
28 the court shall consider the recommendation of the treatment
29 program and the recommendation of the state attorney as to
30 disposition of the pending charges. The court shall
31 determine, by written finding, whether the defendant

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1 successfully completed the pretrial intervention program.

2 (a) If the court finds that the defendant has not
3 successfully completed the pretrial intervention program, the
4 court may order the person to continue in education and
5 treatment or return the charges to the criminal docket for
6 prosecution.

7 (b) If the court finds that the defendant has
8 successfully completed the pretrial intervention program, the
9 court shall dismiss the charges.

10 (4) Any public or private entity providing a pretrial
11 intervention program under this section shall contract with
12 the county or appropriate governmental entity. The terms of
13 the contract shall include, but not be limited to, the
14 requirements established for private entities under s.
15 948.15(3).

16 Section 5. This act shall take effect upon becoming a
17 law.

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

21 And the title is amended as follows:

22 Delete everything before the enacting clause

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24 and insert:

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A bill to be entitled

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An act relating to pretrial intervention

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programs; providing goals for treatment-based

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drug court programs; requiring judicial

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circuits to establish a model of

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treatment-based drug court programs for certain

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purposes; providing criteria; providing

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1 legislative intent; providing certain
2 principles for operating drug court programs;
3 providing for inclusion of certain programs in
4 such drug court programs; amending s. 910.035,
5 F.S.; providing for transferring persons
6 eligible for participation in drug court
7 treatment programs to other jurisdictions under
8 certain circumstances; providing criteria,
9 requirements, and limitations; amending s.
10 948.08, F.S.; adding persons charged with
11 specified crimes to the list of persons
12 eligible for admission into a pretrial
13 substance abuse program; creating s. 948.16,
14 F.S.; providing for a misdemeanor pretrial
15 substance abuse education and treatment
16 intervention program; providing for admitting
17 certain persons to the program under certain
18 circumstances; providing for disposition of
19 persons in the program; providing criteria;
20 providing contracting requirements for entities
21 providing such a program; providing an
22 effective date.

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