

Bill No. CS for CS for SB 1814

Amendment No. Barcode 602294

<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. The chair is responsible for providing the
7 association's recommendations to the Supreme Court
8 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 person 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 consent

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1 to abide by the rules and procedures of the receiving county's
2 drug court program.

3 (d) After the transfer takes place, the clerk shall
4 set the matter for a hearing before the drug court program
5 judge and the court shall ensure the defendant's entry into
6 the drug court program.

7 (e) The jurisdiction to which the case has been
8 transferred shall dispose of the case pursuant to s.
9 948.08(6). If the defendant does not complete the drug court
10 program successfully, the case shall be prosecuted as
11 determined by the state attorneys of the sending and receiving
12 counties.

13 Section 3. Paragraph (a) of subsection (6) of section
14 948.08, Florida Statutes, is amended to read:

15 (6)(a) Notwithstanding any provision of this section,
16 a person who is charged with a felony of the second or third
17 degree for purchase or possession of a controlled substance
18 under chapter 893, tampering with evidence, solicitation for
19 purchase, obtaining a prescription by fraud, and who has not
20 been charged with a crime, involving violence, including but
21 not limited to, murder, sexual battery, robbery, car jacking,
22 home-invasion robbery, or any other crime involving violence
23 and who has not previously been convicted of a felony nor been
24 admitted to a felony pretrial program referred to in this
25 section, is eligible for admission into a pretrial substance
26 abuse education and treatment intervention program approved by
27 the chief judge of the circuit, for a period of not less than
28 1 year in duration, upon motion of either party or the courts
29 own motion, except:

30 1. If a defendant was previously offered admission to
31 a pretrial substance abuse education and treatment

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1 intervention program at any time prior to trial and the
2 defendant rejected that offer on the record, then the court or
3 the state attorney may deny the defendant's admission to such
4 a program.

5 2. If the state attorney believes that the facts and
6 circumstances of the case suggest the defendant's involvement
7 in the dealing and selling of controlled substances, the court
8 shall hold a preadmission hearing. If the state attorney
9 establishes, by a preponderance of the evidence at such
10 hearing, that the defendant was involved in the dealing or
11 selling of controlled substances, the court shall deny the
12 defendant's admission into a pretrial intervention program.

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

25 Section 4. Section 948.16, Florida Statutes, is
26 created to read:

27 948.16 Misdemeanor pretrial substance abuse education
28 and treatment intervention program.--

29 (1) A person who is charged with a misdemeanor for
30 possession of a controlled substance or drug paraphernalia
31 under chapter 893, and who has not previously been convicted

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1 of a felony nor been admitted to a pretrial program, is
2 eligible for admission into a misdemeanor pretrial substance
3 abuse education and treatment intervention program approved by
4 the chief judge of the circuit, for a period based on the
5 program requirements and the treatment plan for the offender,
6 upon motion of either party or the court's own motion, except,
7 if the state attorney believes the facts and circumstances of
8 the case suggest the defendant is involved in dealing and
9 selling controlled substances, the court shall hold a
10 preadmission hearing. If the state attorney establishes, by a
11 preponderance of the evidence at such hearing, that the
12 defendant was involved in dealing or selling controlled
13 substances, the court shall deny the defendant's admission
14 into the pretrial intervention program.

15 (2) At the end of the pretrial intervention period,
16 the court shall consider the recommendation of the treatment
17 program and the recommendation of the state attorney as to
18 disposition of the pending charges. The court shall
19 determine, by written finding, whether the defendant
20 successfully completed the pretrial intervention program.

21 (a) If the court finds that the defendant has not
22 successfully completed the pretrial intervention program, the
23 court may order the person to continue in education and
24 treatment or return the charges to the criminal docket for
25 prosecution.

26 (b) The court shall dismiss the charges upon finding
27 that the defendant has successfully completed the pretrial
28 intervention program.

29 (3) Any public or private entity providing a pretrial
30 substance abuse education and treatment program under this
31 section shall contract with the county or appropriate

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1 governmental entity. The terms of the contract shall include,
2 but not be limited to, the requirements established for
3 private entities under s. 948.15(3).

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

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

9 And the title is amended as follows:

10 Delete everything before the enacting clause

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12 and insert:

13 A bill to be entitled
14 An act relating to substance abuse treatment
15 programs; providing goals for treatment-based
16 drug court programs; requiring judicial
17 circuits to establish a model of
18 treatment-based drug court programs for certain
19 purposes; providing criteria; providing
20 legislative intent; providing certain
21 principles for operating drug court programs;
22 providing for inclusion of certain programs in
23 such drug court programs; amending s. 910.035,
24 F.S.; providing for transferring persons
25 eligible for participation in drug court
26 treatment programs to other jurisdictions under
27 certain circumstances; providing criteria,
28 requirements, and limitations; amending s.
29 948.08, F.S.; adding persons charged with
30 specified crimes to the list of persons
31 eligible for admission into a pretrial

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1 substance abuse program; creating s. 948.16,
2 F.S.; providing for a misdemeanor pretrial
3 substance abuse education and treatment
4 intervention program; providing for admitting
5 certain persons to the program under certain
6 circumstances; providing for disposition of
7 persons in the program; providing criteria;
8 providing contracting requirements for entities
9 providing such a program; providing an
10 effective date.

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