

By the Committee on Judiciary and Senator Burt

308-1831A-01

1 A bill to be entitled
2 An act relating to the state court system;
3 providing legislative intent with respect to
4 the development of treatment-based drug courts;
5 requiring each judicial circuit to establish
6 one or more treatment-based drug courts within
7 any of the divisions of the circuit; specifying
8 the principles of therapeutic jurisprudence to
9 be included in the drug court programs;
10 establishing the position of drug court
11 coordinator within each judicial circuit;
12 providing duties of the coordinator;
13 authorizing the drug courts to include certain
14 pretrial intervention programs in the court's
15 program; creating the Florida Association of
16 Drug Court Professionals; providing for
17 membership; requiring that the chairperson of
18 the association provide recommendations to the
19 Supreme Court Treatment-Based Drug Court
20 Steering Committee; amending s. 910.035, F.S.;
21 providing for a defendant to be transferred to
22 a drug-treatment program in another county;
23 providing criteria for such transfer; providing
24 for the defendant to be prosecuted upon failure
25 to successfully complete the drug-treatment
26 program; amending s. 948.08, F.S.; providing
27 for persons charged with certain offenses
28 involving controlled substances who have not
29 been charged with a crime involving violence to
30 be admitted to a pretrial intervention program;
31 providing requirements for a defendant to be

1 designated as eligible for a pretrial
2 intervention program; creating s. 948.16, F.S.;
3 providing a pretrial substance abuse treatment
4 and intervention program; providing criteria
5 for admission to the program; providing for
6 denial of such admission if the defendant was
7 involved in the dealing or selling of
8 controlled substances; requiring the court to
9 determine whether the defendant has
10 successfully completed the program; providing
11 contract requirements for entities that provide
12 pretrial substance abuse treatment and
13 intervention programs; providing an effective
14 date.

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

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18 Section 1. Treatment-Based drug courts.--
19 (1) It is the intent of the Legislature to implement
20 treatment-based drug courts in each judicial circuit in an
21 effort to reduce crime and recidivism, cases of abuse and
22 neglect, and the dysfunction of families by breaking the cycle
23 of addiction which is the most predominant cause of cases
24 entering the justice system. The Legislature recognizes that
25 the integration of judicial supervision, treatment,
26 accountability, and sanctions greatly increase the
27 effectiveness of substance-abuse treatment. The Legislature
28 also seeks to ensure that there is a coordinated, integrated,
29 and multidisciplinary response to the problem of substance
30 abuse in this state, with special attention given to creating
31 partnerships between the public and private sectors and

1 providing for the coordinated, supported, and integrated
2 delivery of multiple-system services for substance abusers,
3 including a multiagency team approach to delivering services.

4 (2) Each judicial circuit shall establish a model of
5 one or more treatment-based drug courts wherein persons
6 assessed with a substance-abuse problem in the justice system
7 will be processed in a manner that appropriately addresses the
8 severity of the identified substance-abuse problem through
9 treatment plans tailored to the individual needs of the
10 participant. These treatment-based drug court models may be
11 established in the misdemeanor, felony, family, delinquency,
12 and dependency divisions of the judicial circuits. It is the
13 intent of the Legislature to encourage the Department of
14 Corrections, the Department of Children and Family Services,
15 the Department of Juvenile Justice, the Department of Health,
16 the Department of Law Enforcement, and other such agencies,
17 local governments, law enforcement agencies, and other
18 interested public or private sources to support the creation
19 and establishment of these problem-solving courts.

20 Participation in the treatment-based drug courts does not
21 divest any public or private agency of its responsibility for
22 a child or adult, but allows these agencies to better meet
23 their needs through shared responsibility and resources.

24 (3) Each treatment-based drug court shall include
25 principles of therapeutic jurisprudence and adhere to the Ten
26 Key Components, recognized by the Drug Courts Program Office
27 of the Office of Justice Programs of the United States
28 Department of Justice, and adopted by the Florida Supreme
29 Court Treatment-Based Drug Court Steering Committee, as
30 follows:

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1 (a) Drug courts shall integrate alcohol and other
2 drug-treatment services with case processing within the
3 justice system.

4 (b) Using a nonadversarial approach, prosecution and
5 defense counsel shall promote public safety while protecting a
6 participant's right to due process.

7 (c) Eligible participants shall be identified early
8 and promptly placed in the drug court program.

9 (d) Drug courts shall provide access to a continuum of
10 alcohol, drug, and related treatment and rehabilitation
11 services.

12 (e) Abstinence shall be monitored by frequent and
13 random testing for alcohol and other drugs.

14 (f) A coordinated strategy shall govern the responses
15 of the drug court to participants' compliance.

16 (g) Drug courts shall provide ongoing judicial
17 interaction with each participant.

18 (h) Drug courts shall measure the achievement of
19 program goals and gauge the effectiveness of the program by
20 monitoring and evaluation.

21 (i) Drug courts shall promote effective planning,
22 implementation, and operations by requiring continuing
23 interdisciplinary education for practitioners within the drug
24 courts.

25 (j) Drug courts shall generate local support and
26 enhance program effectiveness by forging partnerships with
27 public agencies and community-based organizations.

28 (4) There is established in each judicial circuit, at
29 a minimum, one position for a drug court coordinator within
30 the state courts system to coordinate the responsibilities
31 between the participating agencies and service providers.

1 These positions shall provide direct support to the
2 treatment-based drug court by providing for program
3 coordination between the multidisciplinary team, the
4 judiciary, and case managers; monitoring compliance of drug
5 court participants with court requirements; and providing for
6 program evaluation and accountability.

7 (5) These treatment-based drug courts may include
8 pretrial intervention programs, as set forth in sections
9 948.08(6), 948.16, and 985.306, Florida Statutes, and
10 postadjudicatory programs.

11 (6)(a) There is created the Florida Association of
12 Drug Court Professionals. The membership may consist of drug
13 court practitioners who comprise the multidisciplinary drug
14 court team, including, but not limited to, judges, state
15 attorneys, defense counsel, drug court coordinators, probation
16 officers, law enforcement officers, members of the academic
17 community, and treatment professionals. Membership in the
18 association shall be voluntary.

19 (b) The association shall annually elect a chairperson
20 who shall solicit recommendations from members on issues
21 relating to the expansion, operation, and institutionalization
22 of drug courts. The chairperson shall provide recommendations
23 of the association to the Supreme Court Treatment-Based Drug
24 Court Steering Committee and shall submit a report to the
25 committee on or before October 1 of each year.

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

28 910.035 Transfer from county for plea and sentence.--

29 (5) TRANSFER TO DRUG-TREATMENT PROGRAM IN ANOTHER
30 COUNTY.--Any defendant who is eligible to participate in a
31 substance abuse treatment program under s. 948.08(6) may have

1 the case transferred to a county other than that in which the
2 case arose if the drug court coordinator or other authorized
3 representative of the county wishing to transfer the case
4 consults with the drug court coordinator or authorized
5 representative of the drug court in the county to which the
6 defendant is to be transferred.

7 (a) If the transfer is approved by all parties, the
8 trial court shall enter an order directing the clerk of the
9 court to transfer the case to the county that has accepted the
10 defendant into its drug court program.

11 (b) The transfer order must include a copy of the
12 affidavit of probable cause; any charging document in the
13 case; all reports, witness statements, test results, evidence
14 lists, and other documents in the case; the defendant's
15 mailing address and phone number; and the defendant's written
16 consent to abide by the rules and procedures of the drug court
17 program in the receiving county.

18 (c) After the transfer, the clerk of the court shall
19 set the matter for a hearing before the judge of the drug
20 court and the court shall ensure the defendant's entry into
21 the drug court program.

22 (d) The court shall dispose of the case as provided in
23 s. 948.08(6). If the defendant fails to successfully complete
24 the drug court program, the defendant shall be prosecuted as
25 determined by the state attorneys of the sending and receiving
26 counties.

27 Section 3. Paragraph (a) of subsection (6) and
28 subsection (7) of section 948.08, Florida Statutes, are
29 amended to read:

30 948.08 Pretrial intervention program.--

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1 (6)(a) Notwithstanding any provision of this section,
2 a person who is charged with a felony of the second or third
3 degree for purchase or possession of a controlled substance
4 under chapter 893, or who is charged with tampering with
5 evidence, soliciting the purchase of a controlled substance,
6 or obtaining a prescription by fraud; who has not been charged
7 with a crime involving violence, including, but not limited
8 to, murder, sexual battery, robbery, car jacking,
9 home-invasion robbery, or an other crime involving violence;
10 and who has not previously been convicted of a felony nor been
11 admitted to a felony pretrial program referred to in this
12 section, is eligible for admission into a pretrial substance
13 abuse education and treatment intervention program approved by
14 the chief judge of the circuit, for a period of not less than
15 1 year in duration, upon motion of either party or the court's
16 own motion, except:

17 1. If a defendant was previously offered admission to
18 a pretrial substance abuse education and treatment
19 intervention program at any time prior to trial and the
20 defendant rejected that offer on the record, then the court or
21 the state attorney may deny the defendant's admission to such
22 a program.

23 2. If the state attorney believes that the facts and
24 circumstances of the case suggest the defendant's involvement
25 in the dealing and selling of controlled substances, the court
26 shall hold a preadmission hearing. If the state attorney
27 establishes, by a preponderance of the evidence at such
28 hearing, that the defendant was involved in the dealing or
29 selling of controlled substances, the court shall deny the
30 defendant's admission into a pretrial intervention program.

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1 (7) The chief judge in each circuit may appoint an
2 advisory committee for the pretrial intervention program
3 composed of the chief judge or his or her designee, who shall
4 serve as chair; the state attorney, the public defender, and
5 the program administrator, or their designees; and such other
6 persons as the chair deems appropriate. The advisory committee
7 may not designate any defendant eligible for a pretrial
8 intervention program for any offense that is not listed under
9 paragraph (6)(a) without the state attorney's recommendation
10 and approval.The committee may also include persons
11 representing any other agencies to which persons released to
12 the pretrial intervention program may be referred.

13 Section 4. Section 948.16, Florida Statutes, is
14 created to read:

15 948.16 Pretrial substance abuse treatment and
16 intervention program.--

17 (1) A person who is charged with a misdemeanor for
18 possessing a controlled substance or drug paraphernalia under
19 chapter 893 and who has not previously been convicted of a
20 felony or admitted to a pretrial program is eligible for
21 admission into a pretrial substance abuse treatment and
22 intervention program approved by the chief judge of the
23 circuit. Upon a motion of the offender or the state attorney
24 or upon a motion of the court, the offender shall be placed in
25 the program for a period based on the requirements of the
26 program and the offender's treatment plan.

27 (2) If the state attorney believes that the facts and
28 circumstances of the case suggest the defendant's involvement
29 in the dealing and selling of controlled substances, the court
30 shall hold a preadmission hearing. If the state attorney
31 establishes, by a preponderance of the evidence at such

1 hearing, that the defendant was involved in the dealing or
2 selling of controlled substances, the court shall deny the
3 defendant's admission into a pretrial substance abuse
4 treatment and intervention program.

5 (3) At the end of the pretrial intervention period,
6 the court shall consider the recommendation of the
7 administrator of the treatment program and the recommendation
8 of the state attorney as to disposition of the pending
9 charges. The court shall determine, by written finding,
10 whether the defendant has successfully completed the pretrial
11 substance abuse treatment and intervention program.

12 (a) If the court finds that the defendant has not
13 successfully completed the pretrial intervention program, the
14 court may order the defendant to continue in the treatment and
15 intervention program or order that the defendant be criminally
16 prosecuted.

17 (b) The court shall dismiss the charges upon a finding
18 that the defendant has successfully completed the pretrial
19 substance abuse treatment and intervention program.

20 (4) Any entity, whether public or private, which
21 provides a pretrial substance abuse treatment and intervention
22 program under this section must contract with the county or
23 appropriate governmental entity, and the terms of the contract
24 must include, but need not be limited to, the requirements
25 established for private entities under s. 948.15(3).

26 Section 5. This act shall take effect July 1, 2001.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 1814

Expands category of offenders who may be eligible for admission into a felony pretrial substance abuse and treatment program.

Clarifies that the state attorney's approval is required prior to admission in such programs.

Provides authorization and the procedure for intercounty transfer of a criminal defendant to an existing drug-treatment program.

Provides for the creation of pretrial substance abuse treatment and intervention programs and criteria for admission and completion of the programs.