

By the Committees on Criminal Justice, Judiciary and Senator  
Burt

307-1947-01

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          providing duties of the coordinator;  
11          authorizing the drug courts to include certain  
12          pretrial intervention programs in the court's  
13          program; creating the Florida Association of  
14          Drug Court Professionals; providing for  
15          membership; requiring that the chairperson of  
16          the association provide recommendations to the  
17          Supreme Court Treatment-Based Drug Court  
18          Steering Committee; amending s. 910.035, F.S.;  
19          providing for a defendant to be transferred to  
20          a drug-treatment program in another county;  
21          providing criteria for such transfer; providing  
22          for the defendant to be prosecuted upon failure  
23          to successfully complete the drug-treatment  
24          program; amending s. 948.08, F.S.; providing  
25          for persons charged with certain offenses  
26          involving controlled substances who have not  
27          been charged with a crime involving violence to  
28          be admitted to a pretrial intervention program;  
29          providing requirements for a defendant to be  
30          designated as eligible for a pretrial  
31          intervention program; creating s. 948.16, F.S.;

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

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

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16 Section 1. Treatment-Based drug courts.--

17 (1) It is the intent of the Legislature to implement  
18 treatment-based drug courts in each judicial circuit in an  
19 effort to reduce crime and recidivism, cases of abuse and  
20 neglect, and the dysfunction of families by breaking the cycle  
21 of 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 increase 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 problem of substance  
28 abuse in this state, with special attention given to creating  
29 partnerships between the public and private sectors and  
30 providing for the coordinated, supported, and integrated

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1 delivery of multiple-system services for substance abusers,  
2 including a multiagency team approach to delivering services.

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

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

23 (3) Each treatment-based drug court shall include  
24 principles of therapeutic jurisprudence and adhere to the Ten  
25 Key Components, recognized by the Drug Courts Program Office  
26 of the Office of Justice Programs of the United States  
27 Department of Justice, and adopted by the Florida Supreme  
28 Court Treatment-Based Drug Court Steering Committee, as  
29 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) These treatment-based drug courts may include  
29 pretrial intervention programs, as set forth in sections  
30 948.08(6), 948.16, and 985.306, Florida Statutes, and  
31 postadjudicatory programs.

1           (5)(a) There is created the Florida Association of  
2 Drug Court Professionals. The membership may consist of drug  
3 court practitioners who comprise the multidisciplinary drug  
4 court team, including, but not limited to, judges, state  
5 attorneys, defense counsel, drug court coordinators, probation  
6 officers, law enforcement officers, members of the academic  
7 community, and treatment professionals. Membership in the  
8 association shall be voluntary.

9           (b) The association shall annually elect a chairperson  
10 who shall solicit recommendations from members on issues  
11 relating to the expansion, operation, and institutionalization  
12 of drug courts. The chairperson shall provide recommendations  
13 of the association to the Supreme Court Treatment-Based Drug  
14 Court Steering Committee and shall submit a report to the  
15 committee on or before October 1 of each year.

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

18           910.035 Transfer from county for plea and sentence.--

19           (5) TRANSFER TO DRUG-TREATMENT PROGRAM IN ANOTHER  
20 COUNTY.--Any defendant who is eligible to participate in a  
21 substance abuse treatment program under s. 948.08(6) may have  
22 the case transferred to a county other than that in which the  
23 case arose if the drug court coordinator or other authorized  
24 representative of the county wishing to transfer the case  
25 consults with the drug court coordinator or authorized  
26 representative of the drug court in the county to which the  
27 defendant is to be transferred.

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

1           (b) The transfer order must include a copy of the  
2 affidavit of probable cause; any charging document in the  
3 case; all reports, witness statements, test results, evidence  
4 lists, and other documents in the case; the defendant's  
5 mailing address and phone number; and the defendant's written  
6 consent to abide by the rules and procedures of the drug court  
7 program in the receiving county.

8           (c) After the transfer, the clerk of the court shall  
9 set the matter for a hearing before the judge of the drug  
10 court and the court shall ensure the defendant's entry into  
11 the drug court program.

12           (d) The court shall dispose of the case as provided in  
13 s. 948.08(6). If the defendant fails to successfully complete  
14 the drug court program, the defendant shall be prosecuted as  
15 determined by the state attorneys of the sending and receiving  
16 counties.

17           Section 3. Paragraph (a) of subsection (6) and  
18 subsection (7) of section 948.08, Florida Statutes, are  
19 amended to read:

20           948.08 Pretrial intervention program.--

21           (6)(a) Notwithstanding any provision of this section,  
22 a person who is charged with a felony of the second or third  
23 degree for purchase or possession of a controlled substance  
24 under chapter 893, or who is charged with tampering with  
25 evidence, soliciting the purchase of a controlled substance,  
26 or obtaining a prescription by fraud; who has not been charged  
27 with a crime involving violence, including, but not limited  
28 to, murder, sexual battery, robbery, car jacking,  
29 home-invasion robbery, or an 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

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 court's  
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 committee  
26 may not designate any defendant eligible for a pretrial  
27 intervention program for any offense that is not listed under  
28 paragraph (6)(a) without the state attorney's recommendation  
29 and approval.The committee may also include persons  
30 representing any other agencies to which persons released to  
31 the pretrial intervention program may be referred.

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

3           948.16 Pretrial substance abuse treatment and  
4 intervention program.--

5           (1) A person who is charged with a misdemeanor for  
6 possessing a controlled substance or drug paraphernalia under  
7 chapter 893 and who has not previously been convicted of a  
8 felony or admitted to a pretrial program is eligible for  
9 admission into a pretrial substance abuse treatment and  
10 intervention program approved by the chief judge of the  
11 circuit. Upon a motion of the offender or the state attorney  
12 or upon a motion of the court, the offender shall be placed in  
13 the program for a period based on the requirements of the  
14 program and the offender's treatment plan.

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

24           (3) At the end of the pretrial intervention period,  
25 the court shall consider the recommendation of the  
26 administrator of the treatment program and the recommendation  
27 of the state attorney as to disposition of the pending  
28 charges. The court shall determine, by written finding,  
29 whether the defendant has successfully completed the pretrial  
30 substance abuse treatment and intervention program.

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1           (a) If the court finds that the defendant has not  
2 successfully completed the pretrial intervention program, the  
3 court may order the defendant to continue in the treatment and  
4 intervention program or order that the defendant be criminally  
5 prosecuted.

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

9           (4) Any entity, whether public or private, which  
10 provides a pretrial substance abuse treatment and intervention  
11 program under this section must contract with the county or  
12 appropriate governmental entity, and the terms of the contract  
13 must include, but need not be limited to, the requirements  
14 established for private entities under s. 948.15(3).

15           Section 5. This act shall take effect July 1, 2001.

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17                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
18   COMMITTEE SUBSTITUTE FOR  
19   CS for Senate Bill 1814

20           Deletes the requirement that each judicial circuit hire at  
21           least one drug court coordinator to oversee the various  
22           aspects of the drug court process.  
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