

By the Committee on Judicial Oversight and Representatives
Trovillion and Crow

1 A bill to be entitled
2 An act relating to substance abuse treatment
3 programs; providing goals for treatment-based
4 drug courts; requiring judicial circuits to
5 establish a model of treatment-based drug
6 courts for certain purposes; providing
7 criteria; providing legislative intent;
8 providing certain principles for operating drug
9 courts; establishing a drug court coordinator
10 in each judicial circuit for certain purposes;
11 providing for inclusion of certain programs in
12 such courts; amending s. 910.035, F.S.;
13 providing for transferring persons eligible for
14 participation in drug court treatment programs
15 to other jurisdictions under certain
16 circumstances; providing criteria,
17 requirements, and limitations; amending s.
18 948.08, F.S.; adding persons charged with
19 specified crimes to the list of persons
20 eligible for admission into a pretrial
21 substance abuse program; creating s. 948.16,
22 F.S.; providing for a misdemeanor pretrial
23 substance abuse education and treatment
24 intervention program; providing for admitting
25 certain persons to the program under certain
26 circumstances; providing for disposition of
27 persons in the program; providing criteria;
28 providing contracting requirements for entities
29 providing such a program; providing an
30 effective date.
31

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

2
3 Section 1. (1) It is the intent of the Legislature to
4 implement treatment-based drug courts in each judicial circuit
5 in an effort to reduce crime and recidivism, abuse and neglect
6 cases, and family dysfunction by breaking the cycle of
7 addiction which is the most predominant cause of cases
8 entering the justice system. The Legislature recognizes that
9 the integration of judicial supervision, treatment,
10 accountability, and sanctions greatly increases the
11 effectiveness of substance abuse treatment. The Legislature
12 also seeks to ensure that there is a coordinated, integrated,
13 and multidisciplinary response to the substance abuse problem
14 in this state, with special attention given to creating
15 partnerships between the public and private sectors and to the
16 coordinated, supported, and integrated delivery of
17 multiple-system services for substance abusers, including a
18 multiagency team approach to service delivery.

19 (2) Each judicial circuit shall establish a model of a
20 treatment-based drug court under which persons in the justice
21 system assessed with a substance abuse problem will be
22 processed in such a manner as to appropriately address the
23 severity of the identified substance abuse problem through
24 treatment plans tailored to the individual needs of the
25 participant. These treatment-based drug court models may be
26 established in the misdemeanor, felony, family, delinquency,
27 and dependency divisions of the judicial circuits. It is the
28 intent of the Legislature to encourage the Department of
29 Corrections, the Department of Children and Family Services,
30 the Department of Juvenile Justice, the Department of Health,
31 the Department of Law Enforcement, and such other agencies,

1 local governments, law enforcement agencies, and other
2 interested public or private sources to support the creation
3 and establishment of these problem-solving courts.

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

8 (3) The treatment-based drug courts shall include
9 therapeutic jurisprudence principles and adhere to the
10 following 10 key components, recognized by the Drug Courts
11 Program Office of the Office of Justice Programs of the United
12 States Department of Justice and adopted by the Florida
13 Supreme Court Treatment-Based Drug Court Steering Committee:

14 (a) Drug courts integrate alcohol and other drug
15 treatment services with justice system case processing.

16 (b) Using a nonadversarial approach, prosecution and
17 defense counsel promote public safety while protecting
18 participants' due process rights.

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

21 (d) Drug courts provide access to a continuum of
22 alcohol, drug, and other related treatment and rehabilitation
23 services.

24 (e) Abstinence is monitored by frequent testing for
25 alcohol and other drugs.

26 (f) A coordinated strategy governs drug court
27 responses to participants' compliance.

28 (g) Ongoing judicial interaction with each drug court
29 participant is essential.

30 (h) Monitoring and evaluation measure the achievement
31 of program goals and gauge program effectiveness.

1 (i) Continuing interdisciplinary education promotes
2 effective drug court planning, implementation, and operations.

3 (j) Forging partnerships among drug courts, public
4 agencies, and community-based organizations generates local
5 support and enhances drug court effectiveness.

6 (4) The position of drug court coordinator is
7 established for each treatment-based drug court in each
8 judicial circuit for purposes of coordinating the
9 responsibilities between the participating agencies and
10 service providers. The drug court coordinator shall provide
11 direct support to the treatment-based drug court in the form
12 of program coordination between the multiagency team and the
13 judiciary to provide case management, compliance monitoring of
14 drug court participants with court requirements, and program
15 evaluation and accountability.

16 (5) Treatment-based drug courts may include pretrial
17 intervention programs as provided in ss. 948.08, 948.16, and
18 985.306, Florida Statutes.

19 (6)(a) The Florida Association of Drug Court
20 Professionals is created. The membership of the association
21 may consist of drug court practitioners who comprise the
22 multidisciplinary drug court team, including, but not limited
23 to, judges, state attorneys, defense counsel, drug court
24 coordinators, probation officers, law enforcement officers,
25 members of the academic community, and treatment
26 professionals. Membership in the association shall be
27 voluntary.

28 (b) The association shall annually elect a chair whose
29 duty is to solicit recommendations from members on issues
30 relating to the expansion, operation, and institutionalization
31 of drug courts. The chair is responsible for providing the

1 association's recommendations to the Supreme Court
2 Treatment-Based Drug Court Steering Committee, and shall
3 submit a report each year, on or before October 1, to the
4 steering committee.

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

7 910.035 Transfer from county for plea and sentence.--

8 (5) Any person eligible for participation in a drug
9 court treatment program pursuant to s. 948.08(6) may have the
10 case transferred to a county other than that in which the
11 charge arose if the following conditions are met:

12 (a) The drug court coordinator or other authorized
13 representative of the county wishing to transfer the case
14 shall consult with the drug court coordinator or authorized
15 representative of the drug court in the county to which
16 transfer is desired.

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

21 (c) The transfer order shall include a copy of the
22 probable cause affidavit, any charging documents in the case,
23 all reports, witness statements, test results, evidence lists,
24 and other documents in the case, the defendant's mailing
25 address and phone number, and the defendant's written consent
26 to abide by the rules and procedures of the receiving county's
27 drug court program.

28 (d) After the transfer takes place, the clerk shall
29 set the matter for a hearing before the drug court judge and
30 the court shall ensure the defendant's entry into the drug
31 court program.

1 (e) The jurisdiction to which the case has been
2 transferred shall dispose of the case pursuant to s.
3 948.08(6). If the defendant does not complete the drug court
4 program successfully, the case shall be prosecuted as
5 determined by the state attorneys of the sending and receiving
6 counties.

7 Section 3. Paragraph (a) of subsection (6) of section
8 948.08, Florida Statutes, is amended to read:

9 948.08 Pretrial intervention program.--

10 (6)(a) Notwithstanding any provision of this section,
11 a person who is charged with a felony of the second or third
12 degree for purchase or possession of a controlled substance
13 under chapter 893, tampering with evidence, solicitation for
14 purchase, or obtaining a prescription by fraud,and who has
15 not previously been convicted of a felony nor been admitted to
16 a felony pretrial program referred to in this section, is
17 eligible for admission into a pretrial substance abuse
18 education and treatment intervention program approved by the
19 chief judge of the circuit, for a period of not less than 1
20 year in duration, upon motion of either party or the court's
21 own motion, except:

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

28 2. If the state attorney believes that the facts and
29 circumstances of the case suggest the defendant's involvement
30 in the dealing and selling of controlled substances, the court
31 shall hold a preadmission hearing. If the state attorney

1 establishes, by a preponderance of the evidence at such
2 hearing, that the defendant was involved in the dealing or
3 selling of controlled substances, the court shall deny the
4 defendant's admission into a pretrial intervention program.

5 Section 4. Section 948.16, Florida Statutes, is
6 created to read:

7 948.16 Misdemeanor pretrial substance abuse education
8 and treatment intervention program.--

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

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

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

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

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

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

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31