

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; providing for inclusion of certain
10 programs in such courts; amending s. 910.035,
11 F.S.; providing for transferring persons
12 eligible for participation in drug court
13 treatment programs to other jurisdictions under
14 certain circumstances; providing criteria,
15 requirements, and limitations; amending s.
16 948.08, F.S.; adding persons charged with
17 specified crimes to the list of persons
18 eligible for admission into a pretrial
19 substance abuse program; creating s. 948.16,
20 F.S.; providing for a misdemeanor pretrial
21 substance abuse education and treatment
22 intervention program; providing for admitting
23 certain persons to the program under certain
24 circumstances; providing for disposition of
25 persons in the program; providing criteria;
26 providing contracting requirements for entities
27 providing such a program; providing an
28 effective date.

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

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

1 and establishment of these problem-solving courts.

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

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

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

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

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

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

22 (e) Abstinence is monitored by frequent testing for
23 alcohol and other drugs.

24 (f) A coordinated strategy governs drug court
25 responses to participants' compliance.

26 (g) Ongoing judicial interaction with each drug court
27 participant is essential.

28 (h) Monitoring and evaluation measure the achievement
29 of program goals and gauge program effectiveness.

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

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

4 (4) Treatment-based drug courts may include pretrial
5 intervention programs as provided in ss. 948.08, 948.16, and
6 985.306, Florida Statutes.

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

16 (b) The association shall annually elect a chair whose
17 duty is to solicit recommendations from members on issues
18 relating to the expansion, operation, and institutionalization
19 of drug courts. The chair is responsible for providing the
20 association's recommendations to the Supreme Court
21 Treatment-Based Drug Court Steering Committee, and shall
22 submit a report each year, on or before October 1, to the
23 steering committee.

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

26 910.035 Transfer from county for plea and sentence.--

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

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1 (a) The drug court coordinator or other authorized
2 representative of the county wishing to transfer the case
3 shall consult with the drug court coordinator or authorized
4 representative of the drug court in the county to which
5 transfer is desired.

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

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

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

21 (e) The jurisdiction to which the case has been
22 transferred shall dispose of the case pursuant to s.
23 948.08(6). If the defendant does not complete the drug court
24 program successfully, the case 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) of section
28 948.08, Florida Statutes, is amended to read:

29 (6)(a) Notwithstanding any provision of this section,
30 a person who is charged with a felony of the second or third
31 degree for purchase or possession of a controlled substance

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

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

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

27 (7) The chief judge in each circuit may appoint an
28 advisory committee for the pretrial intervention program
29 composed of the chief judge or his or her designee, who shall
30 serve as chair; the state attorney, the public defender, and
31 the program administrator, or their designees; and such other

1 persons as the chair deems appropriate. The advisory
2 committee may not designate any defendant eligible for a
3 pretrial intervention program for any offense not listed under
4 section 948.08(6)(a) without the state attorney's
5 recommendation and approval. The committee may also include
6 persons representing any other agencies to which persons
7 released to the pretrial intervention program may be referred.

8 Section 4. Section 948.16, Florida Statutes, is
9 created to read:

10 948.16 Misdemeanor pretrial substance abuse education
11 and treatment intervention program.--

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

29 (2) At the end of the pretrial intervention period,
30 the court shall consider the recommendation of the treatment
31 program and the recommendation of the state attorney as to

1 disposition of the pending charges. The court shall
2 determine, by written finding, whether the defendant
3 successfully completed the pretrial intervention program.

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

9 (b) The court shall dismiss the charges upon finding
10 that the defendant has successfully completed the pretrial
11 intervention program.

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

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