

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

1 Section 1. (1) It is the intent of the Legislature to
2 implement treatment-based drug court programs in each judicial
3 circuit in an effort to reduce crime and recidivism, abuse and
4 neglect 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 program under which persons in the
19 justice 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 program models
24 may be established in the misdemeanor, felony, family,
25 delinquency, and dependency divisions of the judicial
26 circuits. It is the intent of the Legislature to encourage
27 the Department of Corrections, the Department of Children and
28 Family Services, the Department of Juvenile Justice, the
29 Department of Health, the Department of Law Enforcement, and
30 such other agencies, local governments, law enforcement
31 agencies, and other interested public or private sources to

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

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

13 (a) Drug court programs integrate alcohol and other
14 drug treatment services with justice system case processing.

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

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

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

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

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

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

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

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

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

7 (4) Treatment-based drug court programs may include
8 pretrial intervention programs as provided in ss. 948.08,
9 948.16, and 985.306, Florida Statutes.

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

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

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

29 910.035 Transfer from county for plea and sentence.--

30 (5) Any person eligible for participation in a drug
31 court treatment program pursuant to s. 948.08(6) may be

1 eligible to have the case transferred to a county other than
2 that in which the charge arose if the drug court program
3 agrees and if the following conditions are met:

4 (a) The authorized representative of the drug court
5 program of the county requesting to transfer the case shall
6 consult with the authorized representative of the drug court
7 program in the county to which transfer is desired.

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

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

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

23 (e) The jurisdiction to which the case has been
24 transferred shall dispose of the case pursuant to s.
25 948.08(6). If the defendant does not complete the drug court
26 program successfully, the case shall be prosecuted as
27 determined by the state attorneys of the sending and receiving
28 counties.

29 Section 3. Paragraph (a) of subsection (6) of section
30 948.08, Florida Statutes, is amended to read:

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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, tampering with evidence, solicitation for
5 purchase, obtaining a prescription by fraud, and who has not
6 been charged with a crime, involving violence, including but
7 not limited to, murder, sexual battery, robbery, car jacking,
8 home-invasion robbery, or any other crime involving violence
9 and who has not previously been convicted of a felony nor been
10 admitted to a felony pretrial program referred to in this
11 section, is eligible for admission into a pretrial substance
12 abuse education and treatment intervention program approved by
13 the chief judge of the circuit, for a period of not less than
14 1 year in duration, upon motion of either party or the courts
15 own motion, except:

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

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

30 (7) The chief judge in each circuit may appoint an
31 advisory committee for the pretrial intervention program

1 composed of the chief judge or his or her designee, who shall
2 serve as chair; the state attorney, the public defender, and
3 the program administrator, or their designees; and such other
4 persons as the chair deems appropriate. The advisory
5 committee may not designate any defendant eligible for a
6 pretrial intervention program for any offense not listed under
7 section 948.08(6)(a) without the state attorney's
8 recommendation and approval. The committee may also include
9 persons representing any other agencies to which persons
10 released to the pretrial intervention program may be referred.

11 Section 4. Section 948.16, Florida Statutes, is
12 created to read:

13 948.16 Misdemeanor pretrial substance abuse education
14 and treatment intervention program.--

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

1 (2) At the end of the pretrial intervention period,
2 the court shall consider the recommendation of the treatment
3 program and the recommendation of the state attorney as to
4 disposition of the pending charges. The court shall
5 determine, by written finding, whether the defendant
6 successfully completed the pretrial intervention program.

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

12 (b) The court shall dismiss the charges upon finding
13 that the defendant has successfully completed the pretrial
14 intervention program.

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

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