

By Senator Burt

16-1262-02

1 A bill to be entitled
2 An act relating to substance-abuse treatment
3 and intervention; amending s. 39.001, F.S.;
4 providing additional legislative findings and
5 purposes with respect to the treatment of
6 substance abuse; amending ss. 39.402, 39.407,
7 F.S.; authorizing the court to order specified
8 persons to submit to a substance-abuse
9 assessment upon a showing of good cause in
10 connection with a shelter hearing or petition
11 for dependency; authorizing sanctions for
12 noncompliance; amending ss. 39.507, 39.521,
13 F.S.; authorizing the court to order specified
14 persons to submit to a substance-abuse
15 assessment as part of an adjudicatory order or
16 pursuant to a disposition hearing; requiring a
17 showing of good cause; authorizing the court to
18 require participation in a treatment-based drug
19 court program; authorizing the court to impose
20 sanctions for noncompliance; amending s.
21 39.701, F.S.; authorizing the court to extend
22 the time for completing a case plan during
23 judicial review, based upon participation in a
24 treatment-based drug court program; amending s.
25 397.334, F.S.; revising legislative intent with
26 respect to treatment-based drug court programs
27 to reflect participation by community support
28 agencies, the Department of Education, and
29 other individuals; including postadjudicatory
30 programs as part of treatment-based drug court
31 programs; requiring each judicial circuit to

1 establish a position for a coordinator of the
2 treatment-based drug court program; requiring
3 the chief judge of each judicial circuit to
4 appoint an advisory committee for the
5 treatment-based drug court program; providing
6 for membership of the committee; amending s.
7 948.08, F.S.; revising eligibility requirements
8 for participation in pretrial intervention
9 programs; authorizing the court to refer
10 certain defendants who are assessed with a
11 substance-abuse problem to a pretrial
12 intervention program with the approval of the
13 state attorney; deleting provisions authorizing
14 advisory committees for the district pretrial
15 intervention programs; amending s. 985.306,
16 F.S.; revising eligibility requirements for
17 participation in delinquency pretrial
18 intervention programs; authorizing the court to
19 refer certain juveniles who are assessed as
20 having a substance-abuse problem to a
21 substance-abuse education and treatment
22 intervention program; deleting provisions
23 authorizing advisory committees for the
24 district delinquency pretrial intervention
25 program; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (4) of section 39.001, Florida
30 Statutes, is amended to read:

31

1 39.001 Purposes and intent; personnel standards and
2 screening.--

3 (4) SUBSTANCE ABUSE SERVICES.--

4 (a) The Legislature recognizes that substance abuse is
5 a primary cause of the dramatic rise in cases of child abuse
6 and neglect, immeasurably increases the complexity of cases in
7 the dependency system, severely compromises or destroys the
8 ability of parents to provide a safe and nurturing home for
9 children, and severely confounds the dependency system's
10 ability to protect children. The Legislature also recognizes
11 that early referral and comprehensive treatment can help
12 combat substance abuse in families and that treatment is
13 cost-effective. The Legislature further recognizes that
14 treatment-based drug court program models that integrate
15 judicial supervision, treatment, accountability, sanctions,
16 and community support greatly increase the effectiveness of
17 substance-abuse treatment and reduce the number of cases of
18 child abuse and neglect.

19 (b) The substance-abuse treatment and family safety
20 programs of the Department of Children and Family Services
21 have identified the following goals for this state:

22 1. Ensure the safety of children;

23 2. Prevent and remediate the consequences of substance
24 abuse on families involved in protective supervision or foster
25 care and reduce substance abuse, including alcohol abuse, for
26 families who are at risk of being involved in protective
27 supervision or foster care;

28 3. Expedite permanency for children and reunify
29 healthy, intact families, when appropriate; and

30 4. Support families in recovery.

31

1 (c) The Legislature finds that children in the care of
2 the state's dependency system need appropriate health care
3 services, that the impact of substance abuse on health
4 indicates the need for health care services to include
5 substance-abuse ~~substance-abuse~~ services to children and
6 parents where appropriate, and that it is in the state's best
7 interest that such children be provided the services they need
8 to enable them to become and remain independent of state care.
9 In order to provide these services, the state's dependency
10 system must have the ability to identify and provide
11 appropriate intervention and treatment for children with
12 personal or family-related substance-abuse ~~substance-abuse~~
13 problems.

14 (d) Parents and children should be assessed early and
15 continually in the process, but not later than the conference
16 date of the case-planning process, to identify substance-abuse
17 problems and appropriately address the severity of the
18 substance-abuse problem. Participation in treatment, including
19 a treatment-based drug court program, may be required by the
20 court following adjudication. This subsection does not prevent
21 a child's parent, and, when appropriate, the legal custodian,
22 from voluntarily entering treatment, including a
23 treatment-based drug court program, at the earliest stage of
24 the process.

25 (e) It is therefore the purpose of the Legislature to
26 provide authority for the state to contract with community
27 substance-abuse ~~substance-abuse~~ treatment providers for the
28 development and operation of specialized support and overlay
29 services for the dependency system, which will be fully
30 implemented and used ~~utilized~~ as resources permit.

31

1 (f) It is the intent of the Legislature to encourage
2 the Department of Children and Family Services, in conjunction
3 with community agencies; treatment-based facilities;
4 facilities dedicated to child welfare, child development, and
5 mental health services; the Department of Health; other
6 similar agencies; local governments; law enforcement agencies;
7 and other interested public or private sources to support the
8 drug court program model. Participation in the treatment-based
9 drug court program does not divest any public or private
10 agency of its responsibility for a child or adult, but enables
11 these agencies to better meet their needs through shared
12 responsibility and resources.

13 Section 2. Present subsections (11) through (16) of
14 section 39.402, Florida Statutes, are redesignated as
15 subsections (12) through (17), respectively, and a new
16 subsection (11) is added to that section, to read:

17 39.402 Placement in a shelter.--

18 (11) At the shelter hearing, if the mental or physical
19 condition of a child or the child's parent, caregiver, legal
20 custodian, or other person requesting custody of the child is
21 in controversy, the court may order the person to submit to a
22 substance-abuse assessment or evaluation. The assessment or
23 evaluation must be administered by a qualified professional,
24 as defined in s. 397.311. The order may be made only upon good
25 cause shown and pursuant to the notice and procedures set
26 forth in the Florida Rules of Juvenile Procedure.

27 Section 3. Section 39.407, Florida Statutes, is
28 amended to read:

29 39.407 Medical, psychiatric, and psychological
30 examination and treatment of child; physical, or mental, or
31

1 substance-abuse examination of parent or person requesting
2 custody of child.--

3 (1) When any child is removed from the home and
4 maintained in an out-of-home placement, the department is
5 authorized to have a medical screening performed on the child
6 without authorization from the court and without consent from
7 a parent or legal custodian. Such medical screening shall be
8 performed by a licensed health care professional and shall be
9 to examine the child for injury, illness, and communicable
10 diseases and to determine the need for immunization. The
11 department shall by rule establish the invasiveness of the
12 medical procedures authorized to be performed under this
13 subsection. In no case does this subsection authorize the
14 department to consent to medical treatment for such children.

15 (2) When the department has performed the medical
16 screening authorized by subsection (1), or when it is
17 otherwise determined by a licensed health care professional
18 that a child who is in an out-of-home placement, but who has
19 not been committed to the department, is in need of medical
20 treatment, including the need for immunization, consent for
21 medical treatment shall be obtained in the following manner:

22 (a)1. Consent to medical treatment shall be obtained
23 from a parent or legal custodian of the child; or

24 2. A court order for such treatment shall be obtained.

25 (b) If a parent or legal custodian of the child is
26 unavailable and his or her whereabouts cannot be reasonably
27 ascertained, and it is after normal working hours so that a
28 court order cannot reasonably be obtained, an authorized agent
29 of the department shall have the authority to consent to
30 necessary medical treatment, including immunization, for the
31 child. The authority of the department to consent to medical

1 treatment in this circumstance shall be limited to the time
2 reasonably necessary to obtain court authorization.

3 (c) If a parent or legal custodian of the child is
4 available but refuses to consent to the necessary treatment,
5 including immunization, a court order shall be required unless
6 the situation meets the definition of an emergency in s.
7 743.064 or the treatment needed is related to suspected abuse,
8 abandonment, or neglect of the child by a parent, caregiver,
9 or legal custodian. In such case, the department shall have
10 the authority to consent to necessary medical treatment. This
11 authority is limited to the time reasonably necessary to
12 obtain court authorization.

13

14 In no case shall the department consent to sterilization,
15 abortion, or termination of life support.

16 (3)(a) A judge may order a child in an out-of-home
17 placement to be examined by a licensed health care
18 professional.

19 (b) The judge may also order such child to be
20 evaluated by a psychiatrist or a psychologist or, if a
21 developmental disability is suspected or alleged, by the
22 developmental disability diagnostic and evaluation team of the
23 department. If it is necessary to place a child in a
24 residential facility for such evaluation, the criteria and
25 procedure established in s. 394.463(2) or chapter 393 shall be
26 used, whichever is applicable.

27 (c) The judge may also order such child to be
28 evaluated by a district school board educational needs
29 assessment team. The educational needs assessment provided by
30 the district school board educational needs assessment team
31 shall include, but not be limited to, reports of intelligence

1 and achievement tests, screening for learning disabilities and
2 other handicaps, and screening for the need for alternative
3 education as defined in s. 230.23.

4 (4) A judge may order a child in an out-of-home
5 placement to be treated by a licensed health care professional
6 based on evidence that the child should receive treatment.
7 The judge may also order such child to receive mental health
8 or developmental disabilities services from a psychiatrist,
9 psychologist, or other appropriate service provider. Except
10 as provided in subsection (5), if it is necessary to place the
11 child in a residential facility for such services, the
12 procedures and criteria established in s. 394.467 or chapter
13 393 shall be used, whichever is applicable. A child may be
14 provided developmental disabilities or mental health services
15 in emergency situations, pursuant to the procedures and
16 criteria contained in s. 394.463(1) or chapter 393, whichever
17 is applicable.

18 (5) Children who are in the legal custody of the
19 department may be placed by the department in a residential
20 treatment center licensed under s. 394.875 or a hospital
21 licensed under chapter 395 for residential mental health
22 treatment only pursuant to this section or may be placed by
23 the court in accordance with an order of involuntary
24 examination or involuntary placement entered pursuant to s.
25 394.463 or s. 394.467. All children placed in a residential
26 treatment program under this subsection must have a guardian
27 ad litem appointed.

28 (a) As used in this subsection, the term:

29 1. "Residential treatment" means placement for
30 observation, diagnosis, or treatment of an emotional
31

1 disturbance in a residential treatment center licensed under
2 s. 394.875 or a hospital licensed under chapter 395.

3 2. "Least restrictive alternative" means the treatment
4 and conditions of treatment that, separately and in
5 combination, are no more intrusive or restrictive of freedom
6 than reasonably necessary to achieve a substantial therapeutic
7 benefit or to protect the child or adolescent or others from
8 physical injury.

9 3. "Suitable for residential treatment" or
10 "suitability" means a determination concerning a child or
11 adolescent with an emotional disturbance as defined in s.
12 394.492(5) or a serious emotional disturbance as defined in s.
13 394.492(6) that each of the following criteria is met:

14 a. The child requires residential treatment.

15 b. The child is in need of a residential treatment
16 program and is expected to benefit from mental health
17 treatment.

18 c. An appropriate, less restrictive alternative to
19 residential treatment is unavailable.

20 (b) Whenever the department believes that a child in
21 its legal custody is emotionally disturbed and may need
22 residential treatment, an examination and suitability
23 assessment must be conducted by a qualified evaluator who is
24 appointed by the Agency for Health Care Administration. This
25 suitability assessment must be completed before the placement
26 of the child in a residential treatment center for emotionally
27 disturbed children and adolescents or a hospital. The
28 qualified evaluator must be a psychiatrist or a psychologist
29 licensed in Florida who has at least 3 years of experience in
30 the diagnosis and treatment of serious emotional disturbances
31 in children and adolescents and who has no actual or perceived

1 conflict of interest with any inpatient facility or
2 residential treatment center or program.

3 (c) Before a child is admitted under this subsection,
4 the child shall be assessed for suitability for residential
5 treatment by a qualified evaluator who has conducted a
6 personal examination and assessment of the child and has made
7 written findings that:

8 1. The child appears to have an emotional disturbance
9 serious enough to require residential treatment and is
10 reasonably likely to benefit from the treatment.

11 2. The child has been provided with a clinically
12 appropriate explanation of the nature and purpose of the
13 treatment.

14 3. All available modalities of treatment less
15 restrictive than residential treatment have been considered,
16 and a less restrictive alternative that would offer comparable
17 benefits to the child is unavailable.

18
19 A copy of the written findings of the evaluation and
20 suitability assessment must be provided to the department and
21 to the guardian ad litem, who shall have the opportunity to
22 discuss the findings with the evaluator.

23 (d) Immediately upon placing a child in a residential
24 treatment program under this section, the department must
25 notify the guardian ad litem and the court having jurisdiction
26 over the child and must provide the guardian ad litem and the
27 court with a copy of the assessment by the qualified
28 evaluator.

29 (e) Within 10 days after the admission of a child to a
30 residential treatment program, the director of the residential
31 treatment program or the director's designee must ensure that

1 an individualized plan of treatment has been prepared by the
2 program and has been explained to the child, to the
3 department, and to the guardian ad litem, and submitted to the
4 department. The child must be involved in the preparation of
5 the plan to the maximum feasible extent consistent with his or
6 her ability to understand and participate, and the guardian ad
7 litem and the child's foster parents must be involved to the
8 maximum extent consistent with the child's treatment needs.
9 The plan must include a preliminary plan for residential
10 treatment and aftercare upon completion of residential
11 treatment. The plan must include specific behavioral and
12 emotional goals against which the success of the residential
13 treatment may be measured. A copy of the plan must be provided
14 to the child, to the guardian ad litem, and to the department.

15 (f) Within 30 days after admission, the residential
16 treatment program must review the appropriateness and
17 suitability of the child's placement in the program. The
18 residential treatment program must determine whether the child
19 is receiving benefit towards the treatment goals and whether
20 the child could be treated in a less restrictive treatment
21 program. The residential treatment program shall prepare a
22 written report of its findings and submit the report to the
23 guardian ad litem and to the department. The department must
24 submit the report to the court. The report must include a
25 discharge plan for the child. The residential treatment
26 program must continue to evaluate the child's treatment
27 progress every 30 days thereafter and must include its
28 findings in a written report submitted to the department. The
29 department may not reimburse a facility until the facility has
30 submitted every written report that is due.

31

1 (g)1. The department must submit, at the beginning of
2 each month, to the court having jurisdiction over the child, a
3 written report regarding the child's progress towards
4 achieving the goals specified in the individualized plan of
5 treatment.

6 2. The court must conduct a hearing to review the
7 status of the child's residential treatment plan no later than
8 3 months after the child's admission to the residential
9 treatment program. An independent review of the child's
10 progress towards achieving the goals and objectives of the
11 treatment plan must be completed by a qualified evaluator and
12 submitted to the court before its 3-month review.

13 3. For any child in residential treatment at the time
14 a judicial review is held pursuant to s. 39.701, the child's
15 continued placement in residential treatment must be a subject
16 of the judicial review.

17 4. If at any time the court determines that the child
18 is not suitable for continued residential treatment, the court
19 shall order the department to place the child in the least
20 restrictive setting that is best suited to meet his or her
21 needs.

22 (h) After the initial 3-month review, the court must
23 conduct a review of the child's residential treatment plan
24 every 90 days.

25 (i) The department must adopt rules for implementing
26 timeframes for the completion of suitability assessments by
27 qualified evaluators and a procedure that includes timeframes
28 for completing the 3-month independent review by the qualified
29 evaluators of the child's progress towards achieving the goals
30 and objectives of the treatment plan which review must be
31 submitted to the court. The Agency for Health Care

1 Administration must adopt rules for the registration of
2 qualified evaluators, the procedure for selecting the
3 evaluators to conduct the reviews required under this section,
4 and a reasonable, cost-efficient fee schedule for qualified
5 evaluators.

6 (6) When a child is in an out-of-home placement, a
7 licensed health care professional shall be immediately called
8 if there are indications of physical injury or illness, or the
9 child shall be taken to the nearest available hospital for
10 emergency care.

11 (7) Except as otherwise provided herein, nothing in
12 this section shall be deemed to eliminate the right of a
13 parent, legal custodian, or the child to consent to
14 examination or treatment for the child.

15 (8) Except as otherwise provided herein, nothing in
16 this section shall be deemed to alter the provisions of s.
17 743.064.

18 (9) A court shall not be precluded from ordering
19 services or treatment to be provided to the child by a duly
20 accredited practitioner who relies solely on spiritual means
21 for healing in accordance with the tenets and practices of a
22 church or religious organization, when required by the child's
23 health and when requested by the child.

24 (10) Nothing in this section shall be construed to
25 authorize the permanent sterilization of the child unless such
26 sterilization is the result of or incidental to medically
27 necessary treatment to protect or preserve the life of the
28 child.

29 (11) For the purpose of obtaining an evaluation or
30 examination, or receiving treatment as authorized pursuant to
31 this section, no child alleged to be or found to be dependent

1 shall be placed in a detention home or other program used
2 primarily for the care and custody of children alleged or
3 found to have committed delinquent acts.

4 (12) The parents or legal custodian of a child in an
5 out-of-home placement remain financially responsible for the
6 cost of medical treatment provided to the child even if either
7 one or both of the parents or if the legal custodian did not
8 consent to the medical treatment. After a hearing, the court
9 may order the parents or legal custodian, if found able to do
10 so, to reimburse the department or other provider of medical
11 services for treatment provided.

12 (13) Nothing in this section alters the authority of
13 the department to consent to medical treatment for a dependent
14 child when the child has been committed to the department and
15 the department has become the legal custodian of the child.

16 (14) At any time after the filing of a shelter
17 petition or petition for dependency, when the mental or
18 physical condition, including the blood group, of a parent,
19 caregiver, legal custodian, or other person requesting custody
20 of a child is in controversy, the court may order the person
21 to submit to a physical or mental examination by a qualified
22 professional. The order may be made only upon good cause
23 shown and pursuant to notice and procedures as set forth by
24 the Florida Rules of Juvenile Procedure.

25 (15) At any time after a shelter petition or petition
26 for dependency is filed, if the mental or physical condition
27 of a child or the child's parent, caregiver, legal custodian,
28 or other person requesting custody of the child is in
29 controversy, the court, if it has not already done so, may
30 order the person to submit to a substance-abuse assessment and
31 evaluation. The assessment or evaluation must be administered

1 by a qualified professional, as defined in s. 397.311. The
2 order may be made only upon good cause shown and pursuant to
3 the notice and procedures set forth in the Florida Rules of
4 Juvenile Procedure.

5 Section 4. Subsection (9) is added to section 39.507,
6 Florida Statutes, to read:

7 39.507 Adjudicatory hearings; orders of
8 adjudication.--

9 (9) If the mental or physical condition of a child or
10 the child's parent, caregiver, legal custodian, or other
11 person requesting custody of the child is in controversy, the
12 court, if it has not already done so, may require the person
13 to submit to a substance-abuse assessment or evaluation. The
14 assessment or evaluation must be administered by a qualified
15 professional, as defined in s. 397.311. The court may also
16 require such person to participate in and comply with
17 treatment and services identified as necessary, including,
18 when appropriate and available, participation and compliance
19 with a treatment-based drug court program. The court,
20 including the treatment-based drug court program, shall
21 oversee the progress and compliance with treatment by the
22 child or the child's parent, legal custodian, caregiver, or
23 other person requesting custody of the child, and shall impose
24 appropriate available sanctions for noncompliance upon the
25 child's parent, legal custodian, caregiver, or other person
26 requesting custody of the child. Any order entered under this
27 subsection may be made only upon good cause shown and pursuant
28 to the notice and procedures set forth in the Florida Rules of
29 Juvenile Procedure.

30 Section 5. Paragraph (b) of subsection (1) of section
31 39.521, Florida Statutes, is amended to read:

1 39.521 Disposition hearings; powers of disposition.--

2 (1) A disposition hearing shall be conducted by the
3 court, if the court finds that the facts alleged in the
4 petition for dependency were proven in the adjudicatory
5 hearing, or if the parents or legal custodians have consented
6 to the finding of dependency or admitted the allegations in
7 the petition, have failed to appear for the arraignment
8 hearing after proper notice, or have not been located despite
9 a diligent search having been conducted.

10 (b) When any child is adjudicated by a court to be
11 dependent, the court having jurisdiction of the child has the
12 power by order to:

13 1. Require, if the court has not already done so, a
14 child or the child's parent, caregiver, legal custodian, or
15 other person requesting custody of the child to submit to a
16 substance-abuse assessment or evaluation when such person's
17 mental or physical condition is in controversy. The assessment
18 or evaluation must be administered by a qualified
19 professional, as defined in s. 397.311. The court may also
20 require such person to participate in treatment and services
21 identified as necessary, including participation and
22 compliance with a treatment-based drug court program, when
23 appropriate and if available. The court, including the
24 treatment-based drug court program, shall oversee the progress
25 and compliance with treatment by the child or the child's
26 parent, legal custodian, caregiver, or other person requesting
27 custody of the child, and shall impose appropriate available
28 sanctions for noncompliance upon the child's parent, legal
29 custodian, caregiver, or other person requesting custody of
30 the child. Any order entered under this paragraph may be made
31 only upon good cause shown and pursuant to the notice and

1 procedures set forth in the Florida Rules of Juvenile
2 Procedure.~~the parent and, when appropriate, the legal~~
3 ~~custodian and the child, to participate in treatment and~~
4 ~~services identified as necessary.~~

5 2. Require, if the court deems necessary, the parties
6 to participate in dependency mediation.

7 3. Require placement of the child either under the
8 protective supervision of an authorized agent of the
9 department in the home of one or both of the child's parents
10 or in the home of a relative of the child or another adult
11 approved by the court, or in the custody of the department.
12 Protective supervision continues until the court terminates it
13 or until the child reaches the age of 18, whichever date is
14 first. Protective supervision shall be terminated by the court
15 whenever the court determines that permanency has been
16 achieved for the child, whether with a parent, another
17 relative, or a legal custodian, and that protective
18 supervision is no longer needed. The termination of
19 supervision may be with or without retaining jurisdiction, at
20 the court's discretion, and shall in either case be considered
21 a permanency option for the child. The order terminating
22 supervision by the department shall set forth the powers of
23 the custodian of the child and shall include the powers
24 ordinarily granted to a guardian of the person of a minor
25 unless otherwise specified. Upon the court's termination of
26 supervision by the department, no further judicial reviews are
27 required, so long as permanency has been established for the
28 child.

29 Section 6. Paragraph (d) of subsection (8) of section
30 39.701, Florida Statutes, is amended to read:

31 39.701 Judicial review.--

1 (8)
2 (d) The court may extend the time limitation of the
3 case plan, or may modify the terms of the plan, which, in
4 addition to other modifications, may include a requirement
5 that the parent, foster parent, or legal custodian participate
6 in a treatment-based drug court program, based upon
7 information provided by the social service agency, and the
8 guardian ad litem, if one has been appointed, the parent or
9 parents, and the foster parents or legal custodian, and any
10 other competent information on record demonstrating the need
11 for the amendment. If the court extends the time limitation of
12 the case plan, the court must make specific findings
13 concerning the frequency of past parent-child visitation, if
14 any, and the court may authorize the expansion or restriction
15 of future visitation. Modifications to the plan must be
16 handled as prescribed in s. 39.601. Any extension of a case
17 plan must comply with the time requirements and other
18 requirements specified by this chapter.

19 Section 7. Section 397.334, Florida Statutes, is
20 amended to read:

21 397.334 Treatment-based drug court programs.--

22 (1) It is the intent of the Legislature to implement
23 treatment-based drug court programs in each judicial circuit
24 in an effort to reduce crime and recidivism, abuse and neglect
25 cases, and family dysfunction by breaking the cycle of
26 addiction, which is the most predominant cause of cases
27 entering the justice system. The Legislature recognizes that
28 the integration of judicial supervision, treatment,
29 accountability, ~~and sanctions,~~ and community support greatly
30 increases the effectiveness of substance-abuse ~~substance abuse~~
31 treatment. The Legislature also seeks to ensure that there is

1 a coordinated, integrated, and multidisciplinary response to
2 the substance-abuse ~~substance-abuse~~ problem in this state,
3 with special attention given to the creation of ~~creating~~
4 partnerships among ~~between~~ the public, community, and private
5 sectors and to the coordinated, supported, and integrated
6 delivery of multiple-system services for substance abusers,
7 including a ~~multiagency~~ team approach to service delivery and
8 aftercare services.

9 (2) Each judicial circuit shall establish a model of a
10 treatment-based drug court program under which persons in the
11 justice system assessed with a substance-abuse ~~substance-abuse~~
12 problem will be processed in such a manner as to appropriately
13 address the severity of the identified substance-abuse
14 ~~substance-abuse~~ problem through treatment services ~~plans~~
15 tailored to the individual needs of the participant. These
16 treatment-based drug court program models may be established
17 in the misdemeanor, felony, family, delinquency, and
18 dependency divisions of the judicial circuits. It is the
19 intent of the Legislature to encourage the Department of
20 Corrections, the Department of Children and Family Services,
21 the Department of Juvenile Justice, the Department of Health,
22 the Department of Law Enforcement, the Department of
23 Education, and other such ~~such other~~ agencies, local
24 governments, law enforcement agencies, ~~and~~ other interested
25 public or private sources, and individuals to support the
26 creation and establishment of these problem-solving court
27 programs. Participation in the treatment-based drug court
28 programs does not divest any public or private agency of its
29 responsibility for a child or adult, but enables ~~allows~~ these
30 agencies to better meet their needs through shared
31 responsibility and resources.

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

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

10 (b) Using a nonadversarial approach, prosecution and
11 defense counsel promote public safety while protecting
12 participants' due process rights.

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

15 (d) Drug court programs provide access to a continuum
16 of alcohol, drug, and other related treatment and
17 rehabilitation services.

18 (e) Abstinence is monitored by frequent testing for
19 alcohol and other drugs.

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

22 (g) Ongoing judicial interaction with each drug court
23 program participant is essential.

24 (h) Monitoring and evaluation measure the achievement
25 of program goals and gauge program effectiveness.

26 (i) Continuing interdisciplinary education promotes
27 effective drug court program planning, implementation, and
28 operations.

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

1 (4) Treatment-based drug court programs may include
2 pretrial intervention programs as provided in ss. 948.08,
3 948.16, and 985.306; postadjudicatory programs; and the
4 monitoring of sentenced offenders through a treatment-based
5 drug court program. Supervision may also be provided for
6 offenders who transfer from jail or a prison-based treatment
7 program into the community.

8 (5) Contingent upon an annual appropriation by the
9 Legislature, each judicial circuit shall establish, at a
10 minimum, one coordinator position for the treatment-based drug
11 court program within the state courts system to coordinate the
12 responsibilities of the participating agencies and service
13 providers. Each coordinator shall provide direct support to
14 the treatment-based drug court program by providing
15 coordination between the multidisciplinary team and the
16 judiciary, providing case management, monitoring compliance of
17 the participants in the treatment-based drug court program
18 with court requirements, and providing program evaluation and
19 accountability.

20 (6)~~(5)~~(a) The Florida Association of Drug Court
21 Program Professionals is created. The membership of the
22 association may consist of treatment-based drug court program
23 practitioners who comprise the multidisciplinary
24 treatment-based drug court program team, including, but not
25 limited to, judges, state attorneys, defense counsel, ~~drug~~
26 ~~court~~ program coordinators, probation officers, law
27 enforcement officers, community representatives, members of
28 the academic community, and treatment professionals.
29 Membership in the association shall be voluntary.

30 (b) The association shall annually elect a chair whose
31 duty is to solicit recommendations from members on issues

1 relating to the expansion, operation, and institutionalization
2 of treatment-based drug court programs. The chair is
3 responsible for providing the association's recommendations to
4 the Supreme Court Treatment-Based Drug Court Steering
5 Committee, and shall submit a report each year, on or before
6 October 1, to the steering committee.

7 (7) The chief judge of each judicial circuit may
8 appoint an advisory committee for the treatment-based drug
9 court program. The committee shall be composed of the chief
10 judge or his or her designee, who shall serve as chairperson;
11 the judge of the treatment-based drug court program, if not
12 otherwise designated by the chief judge as his or her
13 designee; the state attorney, or his or her designee; the
14 public defender, or his or her designee; the treatment-based
15 drug court program coordinators; community representatives;
16 and any other persons the chairperson finds are appropriate.

17 Section 8. Subsections (6), (7), and (8) of section
18 948.08, Florida Statutes, are amended to read:

19 948.08 Pretrial intervention program.--

20 (6)(a) Notwithstanding any provision of this section,
21 a person who is charged with a felony of the second or third
22 degree for purchase or possession of a controlled substance
23 under chapter 893, tampering with evidence, solicitation for
24 purchase of a controlled substance, or obtaining a
25 prescription by fraud; who has not been charged with a crime
26 involving violence, including, but not limited to, murder,
27 sexual battery, robbery, carjacking, home-invasion robbery, or
28 any other crime involving violence; and who has not previously
29 been convicted of a felony ~~nor been admitted to a felony~~
30 ~~pretrial program referred to in this section~~ is eligible for
31 admission into a pretrial substance-abuse ~~substance-abuse~~

1 education and treatment intervention program approved by the
2 chief judge of the circuit, for a period of not less than 1
3 year in duration, upon motion of either party or the court's
4 own motion, except:

5 ~~1. If a defendant was previously offered admission to~~
6 ~~a pretrial substance abuse education and treatment~~
7 ~~intervention program at any time prior to trial and the~~
8 ~~defendant rejected that offer on the record, then the court or~~
9 ~~the state attorney may deny the defendant's admission to such~~
10 ~~a program.~~

11 1.2. If the state attorney believes that the facts and
12 circumstances of the case suggest the defendant's involvement
13 in the dealing and selling of controlled substances, the court
14 shall hold a preadmission hearing. If the state attorney
15 establishes, by a preponderance of the evidence at such
16 hearing, that the defendant was involved in the dealing or
17 selling of controlled substances, the court shall deny the
18 defendant's admission into a pretrial intervention program.

19 2. A defendant assessed with a substance-abuse problem
20 who is charged for the first time with a nonviolent
21 third-degree felony and a defendant assessed with a
22 substance-abuse problem who has previously been convicted of a
23 nonviolent third-degree felony who is charged with a second or
24 subsequent nonviolent third-degree felony may, with the
25 approval of the state attorney, be referred to the program
26 outlined in this subsection. Upon successful completion of the
27 program, the defendant is entitled to dismissal of the pending
28 charge involving a nonviolent third-degree felony.

29 (b) At the end of the pretrial intervention period,
30 the court shall consider the recommendation of the
31 administrator pursuant to subsection (5) and the

1 recommendation of the state attorney as to disposition of the
2 pending charges. The court shall determine, by written
3 finding, whether the defendant has successfully completed the
4 pretrial intervention program.

5 (c)1. If the court finds that the defendant has not
6 successfully completed the pretrial intervention program, the
7 court may order the person to continue in education and
8 treatment or order that the charges revert to normal channels
9 for prosecution.

10 2. The court shall dismiss the charges upon a finding
11 that the defendant has successfully completed the pretrial
12 intervention program.

13 (d) Any entity, whether public or private, providing a
14 pretrial substance-abuse ~~substance abuse~~ education and
15 treatment intervention program under this subsection must
16 contract with the county or appropriate governmental entity,
17 and the terms of the contract must include, but need not be
18 limited to, the requirements established for private entities
19 under s. 948.15(3).

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 ~~(7)(8)~~ The department may contract for the services
2 and facilities necessary to operate pretrial intervention
3 programs.

4 Section 9. Section 985.306, Florida Statutes, is
5 amended to read:

6 985.306 Delinquency pretrial intervention program.--

7 (1)~~(a)~~ Notwithstanding any provision of law to the
8 contrary, a child who is charged ~~under chapter 893~~ with a
9 misdemeanor; a felony of the second or third degree for
10 purchase or possession of a controlled substance under chapter
11 893; tampering with evidence, solicitation for purchase of a
12 controlled substance, or obtaining a prescription by fraud,
13 and who has not previously been adjudicated for a felony ~~nor~~
14 ~~been admitted to a delinquency pretrial intervention program~~
15 ~~under this section~~, is eligible for admission into a
16 delinquency pretrial substance-abuse ~~substance abuse~~ education
17 and treatment intervention program approved by the chief judge
18 or alternative sanctions coordinator of the circuit to the
19 extent that funded programs are available, for a period based
20 on the program requirements and the treatment services that
21 are suitable for the offender ~~of not less than 1 year in~~
22 ~~duration~~, upon motion of either party or the court's own
23 motion, except:-

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

1 2. A child assessed with a substance-abuse problem who
2 is charged for the first time with a nonviolent third-degree
3 felony and a child assessed with a substance-abuse problem who
4 has previously been adjudicated guilty of or delinquent for a
5 nonviolent third-degree felony who is charged with a second or
6 subsequent nonviolent third-degree felony may, with the
7 approval of the state attorney, be referred to the program
8 outlined in this subsection. Upon successful completion of the
9 program, the child is entitled to dismissal of the pending
10 charge as provided in paragraph (3)(b).

11 ~~(2)(b)~~ At the end of the delinquency pretrial
12 intervention period, the court shall consider the
13 recommendation of the state attorney and the program
14 administrator as to disposition of the pending charges. The
15 court shall determine, by written finding, whether the child
16 has successfully completed the delinquency pretrial
17 intervention program.

18 ~~(3)(a)(c)1.~~ If the court finds that the child has not
19 successfully completed the delinquency pretrial intervention
20 program, the court may order the child to continue in an
21 education, treatment, or urine monitoring program if resources
22 and funding are available or order that the charges revert to
23 normal channels for prosecution.

24 ~~(b)2.~~ The court may dismiss the charges upon a finding
25 that the child has successfully completed the delinquency
26 pretrial intervention program.

27 ~~(4)(d)~~ Any entity, whether public or private,
28 providing pretrial substance-abuse ~~substance-abuse~~ education,
29 treatment intervention, and a urine monitoring program under
30 this section must contract with the county or appropriate
31 governmental entity, and the terms of the contract must

1 include, but need not be limited to, the requirements
2 established for private entities under s. 948.15(3). It is the
3 intent of the Legislature that public or private entities
4 providing substance-abuse ~~substance abuse~~ education and
5 treatment intervention programs involve the active
6 participation of parents, schools, churches, businesses, law
7 enforcement agencies, and the department or its contract
8 providers.

9 ~~(2) The chief judge in each circuit may appoint an~~
10 ~~advisory committee for the delinquency pretrial intervention~~
11 ~~program composed of the chief judge or designee, who shall~~
12 ~~serve as chair; the state attorney, the public defender, and~~
13 ~~the program administrator, or their designees; and such other~~
14 ~~persons as the chair deems appropriate. The committee may~~
15 ~~also include persons representing any other agencies to which~~
16 ~~children released to the delinquency pretrial intervention~~
17 ~~program may be referred.~~

18 Section 10. This act shall take effect July 1, 2002.

19

20 *****

21 SENATE SUMMARY

22 Provides for a child or the child's parent, caregiver, or
23 legal custodian before the court in a shelter hearing,
24 petition for dependency, or other disposition hearing to
25 be subject to assessment and treatment for substance
26 abuse. Requires that such evaluation be administered by a
27 qualified professional. Requires notice and a showing of
28 good cause. Authorizes the court to impose sanctions
29 against the child's parent or other caregiver for
30 noncompliance with a treatment-based drug court program.
31 Authorizes the court to extend the time for completing a
case plan upon participation in a treatment-based drug
court program. Contingent upon funding, provides for a
coordinator of the treatment-based drug court program.
Requires the chief judge of each judicial circuit to
appoint an advisory committee for the treatment-based
drug court program. Authorizes the court to refer certain
adult and juvenile defendants who are assessed with a
substance-abuse problem to a pretrial intervention
program with the approval of the state attorney. (See
bill for details.)