

By Representative Harper

1 A bill to be entitled
2 An act relating to nonviolent drug offenders;
3 creating the Drug Abuse and Crime Prevention
4 Act as a supplementary intervention program for
5 certain nonviolent drug offenders; creating s.
6 949.151, F.S.; providing a short title;
7 creating s. 947.31, F.S.; providing for drug
8 treatment in lieu of reincarceration of
9 parolees who commit a nonviolent drug
10 possession offense or violate any drug-related
11 condition of their parole; providing
12 exceptions; authorizing requiring parolees who
13 are reasonably able to do so to contribute to
14 the cost of their placement in a drug treatment
15 program; providing findings and intent;
16 providing definitions; providing conditions and
17 requirements for such treatment; providing for
18 modification or revocation of parole for
19 failure to successfully complete treatment;
20 creating s. 948.21, F.S.; providing for
21 mandatory probation of persons convicted of a
22 nonviolent drug possession offense; providing
23 exceptions; requiring drug treatment as a
24 condition of such probation; authorizing
25 requiring probationers who are reasonably able
26 to do so to contribute to the cost of their
27 placement in a drug treatment program;
28 authorizing other conditions of such probation;
29 providing findings and intent; providing
30 definitions; providing requirements for such
31 treatment; providing for dismissal of charges

1 upon successful completion of such treatment;
2 providing for modification or revocation of
3 probation for failure to successfully complete
4 treatment; creating s. 949.153, F.S.;
5 appropriating funds for the Drug Abuse and
6 Crime Prevention Act for a specified period;
7 providing for distribution and use of funds;
8 providing for local control of drug treatment
9 program location; providing for annual and
10 long-term evaluation studies; requiring annual
11 county reports to the Department of
12 Corrections; providing for audit of county
13 expenditures; providing for carryforward and
14 use of unused funds from fiscal year to fiscal
15 year; providing a contingent effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 949.151, Florida Statutes, is
20 created to read:

21 949.151 Drug Abuse and Crime Prevention Act; short
22 title.--Sections 947.31, 948.21, and 949.151-949.155 may be
23 cited as the "Drug Abuse and Crime Prevention Act."

24 Section 2. Section 947.31, Florida Statutes, is
25 created to read:

26 947.31 Possession or use of controlled substance by
27 parolee; drug treatment; exceptions; modification or
28 revocation of parole.--

29 (1) FINDINGS AND INTENT.--

30 (a) The Legislature finds and declares that:

31

1 1. Drug abuse treatment is a proven public safety and
2 health measure and nonviolent, drug dependent criminal
3 offenders who receive drug treatment are much less likely to
4 abuse drugs and commit future crimes and are more likely to
5 live healthier, more stable, and more productive lives.

6 2. Community safety and health are promoted and
7 taxpayer dollars are saved when nonviolent persons convicted
8 of drug possession or drug use are provided appropriate
9 community-based treatment instead of incarceration.

10 3. Legislation adopted in other states to divert
11 nonviolent drug offenders into drug treatment and education
12 programs rather than incarceration has resulted in safer
13 communities and more drug-abusing parolees in recovery, has
14 saved taxpayers millions of dollars, and is helping a
15 predominant percentage of program participants to remain drug
16 free.

17 (b) The legislative purpose and intent of this section
18 are:

19 1. To divert from incarceration into community-based
20 drug treatment programs nonviolent parolees charged with
21 simple drug possession or drug use offenses.

22 2. To halt the wasteful expenditure of hundreds of
23 millions of dollars each year on the incarceration and
24 reincarceration of nonviolent drug users who would be better
25 served by community-based treatment.

26 3. To enhance public safety by reducing drug-related
27 crime and preserving jails and prison cells for serious and
28 violent offenders.

29 4. To improve public health by reducing drug abuse and
30 drug dependence through proven and effective drug treatment
31 strategies.

1 (c) It is the further legislative intent that the
2 intervention program established by this section for the
3 treatment of drug offenders be supplemental to other
4 intervention programs for the treatment of drug offenders.

5 (2) DEFINITIONS.--As used in this section, the term:

6 (a) "Nonviolent drug possession offense" means the
7 unlawful possession, use, or transportation for personal use
8 of any controlled substance regulated under chapter 893 or the
9 offense of being under the influence of a controlled substance
10 regulated under chapter 893. The term "nonviolent drug
11 possession offense" does not include possession for sale,
12 production, or manufacturing of any controlled substance
13 regulated under chapter 893.

14 (b) "Drug treatment program" or "drug treatment" means
15 a licensed or certified community drug treatment program which
16 may include one or more of the following: outpatient
17 treatment, halfway house treatment, narcotic replacement
18 therapy, drug education or prevention courses, or limited
19 inpatient or residential drug treatment as needed to address
20 special detoxification or relapse situations or severe
21 dependence. The terms "drug treatment program" and "drug
22 treatment" do not include drug treatment programs offered in a
23 prison, jail, or other correctional facility.

24 (c) "Successful completion of treatment" means that a
25 defendant who has had drug treatment imposed as a condition of
26 parole has completed the prescribed course of drug treatment
27 and, as a result, there is reasonable cause to believe that
28 the defendant will not abuse controlled substances in the
29 future.

30 (d) "Misdemeanor not related to the use of drugs"
31 means a misdemeanor that does not involve:

1 1.a. The simple possession or use of drugs or drug
2 paraphernalia;
3 b. Being present where drugs are used; or
4 c. Failure to register as a drug offender; or
5 2. Any activity similar to those listed in
6 subparagraph 1.
7 (3) DRUG TREATMENT OF PAROLEES.--
8 (a) Notwithstanding any other provision of law, and
9 except as provided in paragraph (b), parole may not be
10 suspended or revoked for commission of a nonviolent drug
11 possession offense or for violating any drug-related condition
12 of parole. As an additional condition of parole for all such
13 offenses or violations, the Parole Commission shall require
14 participation in and successful completion of an appropriate
15 drug treatment program. Vocational training, family
16 counseling, and literacy training may be imposed as additional
17 parole conditions. The Parole Commission may require any
18 person on parole who commits a nonviolent drug possession
19 offense or violates any drug-related condition of parole, and
20 who is reasonably able to do so, to contribute to the cost of
21 his or her own placement in a drug treatment program.
22 (b) Paragraph (a) does not apply to:
23 1. Any parolee who has been convicted of one or more
24 felonies of the second degree or higher or one or more
25 felonies involving the use or threat of physical force or
26 violence.
27 2. Any parolee who, while on parole, commits one or
28 more nonviolent drug possession offenses and is found to have
29 concurrently committed a misdemeanor not related to the use of
30 drugs or any felony.
31

1 3. Any parolee who refuses drug treatment as a
2 condition of parole.

3 (4) DRUG TREATMENT PLAN AND PROGRESS REPORTS.--

4 (a) Within 7 days after a finding that the parolee has
5 either committed a nonviolent drug possession offense or
6 violated any drug-related condition of parole, the Parole
7 Commission shall notify the treatment provider designated to
8 provide drug treatment under subsection (3). Within 30 days
9 thereafter, the treatment provider shall prepare a drug
10 treatment plan and forward it to the Parole Commission and to
11 the parole and probation officer responsible for supervising
12 the parolee. On a quarterly basis after the parolee begins
13 drug treatment, the treatment provider shall prepare and
14 forward a progress report on the parolee to the Parole
15 Commission and to the parole and probation officer responsible
16 for supervising the parolee.

17 (b)1. If at any point during the course of drug
18 treatment the treatment provider notifies the Parole
19 Commission that the parolee is unamenable to the drug
20 treatment provided, but amenable to other drug treatments or
21 related programs, the Parole Commission may modify the terms
22 of parole to ensure that the parolee receives the alternative
23 drug treatment or program.

24 2. If at any point during the course of drug treatment
25 the treatment provider notifies the Parole Commission that the
26 parolee is unamenable to the drug treatment provided and all
27 other forms of drug treatment, the Parole Commission may
28 revoke parole. At the revocation hearing, parole may be
29 revoked unless the parolee proves by a preponderance of the
30 evidence that there is a drug treatment program to which he or
31 she is amenable.

1 (c) Drug treatment services provided by subsection (3)
2 as a required condition of parole may not exceed 12 months,
3 provided, however, that additional aftercare services as a
4 condition of parole may be required for up to 6 months.

5 (5) VIOLATION OF PAROLE.--

6 (a) Revocation of parole and incarceration;
7 generally.--If parole is revoked pursuant to the provisions of
8 this subsection, the defendant may be incarcerated pursuant to
9 otherwise applicable law without regard to the provisions of
10 this section.

11 (b) Non-drug-related parole violations.--Where a
12 parolee receives drug treatment under subsection (3), and
13 during the course of drug treatment violates parole either by
14 being arrested for an offense other than a nonviolent drug
15 possession offense or by violating a non-drug-related
16 condition of parole, and the Parole Commission acts to revoke
17 parole, a hearing shall be conducted to determine whether
18 parole shall be revoked. Parole may be modified or revoked if
19 the parole violation is proved.

20 (c) Drug-related parole violations.--

21 1. Where a parolee receives drug treatment under
22 subsection (3), and during the course of drug treatment
23 violates parole either by being arrested for a nonviolent drug
24 possession offense or by violating a drug-related condition of
25 parole, and the Parole Commission acts to revoke parole, a
26 hearing shall be conducted to determine whether parole shall
27 be revoked. Parole shall be revoked where the parole
28 violation is proved and a preponderance of the evidence
29 establishes that the parolee poses a danger to the safety of
30 others. If parole is not revoked, the conditions of parole
31 may be intensified to achieve the goals of drug treatment.

1 2. Where a parolee receives drug treatment under
2 subsection (3), and during the course of drug treatment for
3 the second time violates that parole either by being arrested
4 for a nonviolent drug possession offense or by violating a
5 drug-related condition of parole, and the Parole Commission
6 acts for a second time to revoke parole, a hearing shall be
7 conducted to determine whether parole shall be revoked. If
8 the alleged parole violation is proved, the parolee is not
9 eligible for continued parole under any provision of this
10 section and may be reincarcerated.

11 3. Where a parolee already on parole on the effective
12 date of this section violates that parole either by being
13 arrested for a nonviolent drug possession offense or by
14 violating a drug-related condition of parole, and the Parole
15 Commission acts to revoke parole, a hearing shall be conducted
16 to determine whether parole shall be revoked. Parole shall be
17 revoked where the parole violation is proved and a
18 preponderance of the evidence establishes that the parolee
19 poses a danger to the safety of others. If parole is not
20 revoked, the conditions of parole may be modified to include
21 participation in a drug treatment program as provided in
22 subsection (3). This subparagraph does not apply to any
23 parolee who on the effective date of this section has been
24 convicted of one or more felonies of the second degree or
25 higher or one or more felonies involving the use or threat of
26 physical force or violence.

27 4. Where a parolee already on parole on the effective
28 date of this section violates that parole for the second time
29 either by being arrested for a nonviolent drug-possession
30 offense or by violating a drug-related condition of parole,
31 and the Parole Commission acts for a second time to revoke

1 parole, a hearing shall be conducted to determine whether
2 parole shall be revoked. If the alleged parole violation is
3 proved, the parolee is not eligible for continued parole under
4 any provision of this section and may be reincarcerated.

5 Section 3. Section 948.21, Florida Statutes, is
6 created to read:

7 948.21 Possession or use of controlled substance by
8 probationer; drug treatment; exceptions; modification or
9 revocation of probation.--

10 (1) FINDINGS AND INTENT.--

11 (a) The Legislature finds and declares that:

12 1. Drug abuse treatment is a proven public safety and
13 health measure and nonviolent, drug dependent criminal
14 offenders who receive drug treatment are much less likely to
15 abuse drugs and commit future crimes and are more likely to
16 live healthier, more stable, and more productive lives.

17 2. Community safety and health are promoted and
18 taxpayer dollars are saved when nonviolent persons convicted
19 of drug possession or drug use are provided appropriate
20 community-based treatment instead of incarceration.

21 3. Legislation adopted in other states to divert
22 nonviolent drug offenders into drug treatment and education
23 programs rather than incarceration has resulted in safer
24 communities and more drug-abusing probationers in recovery,
25 has saved taxpayers millions of dollars, and is helping a
26 predominant percentage of program participants to remain drug
27 free.

28 (b) The legislative purpose and intent of this section
29 are:

1 1. To divert from incarceration into community-based
2 drug treatment programs nonviolent defendants and probationers
3 charged with simple drug possession or drug use offenses.

4 2. To halt the wasteful expenditure of hundreds of
5 millions of dollars each year on the incarceration and
6 reincarceration of nonviolent drug users who would be better
7 served by community-based treatment.

8 3. To enhance public safety by reducing drug-related
9 crime and preserving jails and prison cells for serious and
10 violent offenders.

11 4. To improve public health by reducing drug abuse and
12 drug dependence through proven and effective drug treatment
13 strategies.

14 (c) It is the further legislative intent that the
15 intervention program established by this section for the
16 treatment of drug offenders be supplemental to other
17 intervention programs for the treatment of drug offenders.

18 (2) DEFINITIONS.--As used in this section, the term:

19 (a) "Nonviolent drug possession offense" means the
20 unlawful possession, use, or transportation for personal use
21 of any controlled substance regulated under chapter 893 or the
22 offense of being under the influence of a controlled substance
23 regulated under chapter 893. The term "nonviolent drug
24 possession offense" does not include possession for sale,
25 production, or manufacturing of any controlled substance
26 regulated under chapter 893.

27 (b) "Drug treatment program" or "drug treatment" means
28 a licensed or certified community drug treatment program which
29 may include one or more of the following: outpatient
30 treatment, halfway house treatment, narcotic replacement
31 therapy, drug education or prevention courses, or limited

1 inpatient or residential drug treatment as needed to address
2 special detoxification or relapse situations or severe
3 dependence. The terms "drug treatment program" and "drug
4 treatment" do not include drug treatment programs offered in a
5 prison, jail, or other correctional facility.

6 (c) "Successful completion of treatment" means that a
7 defendant who has had drug treatment imposed as a condition of
8 probation has completed the prescribed course of drug
9 treatment and, as a result, there is reasonable cause to
10 believe that the defendant will not abuse controlled
11 substances in the future.

12 (d) "Misdemeanor not related to the use of drugs"
13 means a misdemeanor that does not involve:

14 1.a. The simple possession or use of drugs or drug
15 paraphernalia;

16 b. Being present where drugs are used; or

17 c. Failure to register as a drug offender; or

18 2. Any activity similar to those listed in
19 subparagraph 1.

20 (3) DRUG TREATMENT FOR PROBATIONERS.--

21 (a) Notwithstanding any other provision of law, and
22 except as provided in paragraph (b), any person convicted of a
23 nonviolent drug possession offense shall receive probation.

24 As a condition of probation, the court shall require
25 participation in and completion of an appropriate drug
26 treatment program. The court may also impose as a condition
27 of probation participation in vocational training, family
28 counseling, literacy training, or community service. A court
29 may not impose incarceration as an additional condition of
30 probation. Aside from the limitations imposed in this
31 paragraph, the trial court is not otherwise limited in the

1 type of probation conditions it may impose. In addition to
2 any fine assessed under other provisions of law, the trial
3 judge may require any person convicted of a nonviolent drug
4 possession offense who is reasonably able to do so to
5 contribute to the cost of his or her own placement in a drug
6 treatment program.

7 (b) Paragraph (a) does not apply to:

8 1. Any defendant who has previously been convicted of
9 one or more felonies of the second degree or higher or one or
10 more felonies involving the use or threat of physical force or
11 violence, unless the nonviolent drug possession offense
12 occurred after a period of 5 years in which the defendant
13 remained free of both prison custody and the commission of an
14 offense which results in:

15 a. A felony conviction other than a nonviolent drug
16 possession offense; or

17 b. A misdemeanor conviction involving physical injury
18 or the threat of physical injury to another person.

19 2. Any defendant who, in addition to one or more
20 nonviolent drug possession offenses, has been convicted in the
21 same proceeding of a misdemeanor not related to the use of
22 drugs or any felony.

23 3. Any defendant who:

24 a. While using a firearm, unlawfully possesses any
25 amount of a substance containing either cocaine base, cocaine,
26 heroin, or methamphetamine or a liquid, nonliquid, plant
27 substance, or hand-rolled cigarette containing phencyclidine.

28 b. While using a firearm, is unlawfully under the
29 influence of cocaine base, cocaine, heroin, methamphetamine,
30 or phencyclidine.

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1 4. Any defendant who refuses drug treatment as a
2 condition of probation.

3 5. Any defendant who has two separate convictions for
4 nonviolent drug possession offenses, has participated in two
5 separate courses of drug treatment pursuant to subsection (3),
6 and is found by the court, by clear and convincing evidence,
7 to be unamenable to any and all forms of available drug
8 treatment. Notwithstanding any other provision of law, the
9 trial court shall sentence such defendants to 30 days in jail.

10 (4) DRUG TREATMENT PLAN AND PROGRESS REPORTS.--

11 (a) Within 7 days after an order imposing probation
12 under subsection (3), the Department of Corrections shall
13 notify the drug treatment provider designated to provide drug
14 treatment under subsection (3). Within 30 days after
15 receiving that notice, the treatment provider shall prepare a
16 treatment plan and forward it to the Department of
17 Corrections. On a quarterly basis after the defendant begins
18 the drug treatment program, the treatment provider shall
19 prepare and forward a progress report on the defendant to the
20 Department of Corrections.

21 (b)1. If at any point during the course of drug
22 treatment the treatment provider notifies the Department of
23 Corrections that the defendant is unamenable to the drug
24 treatment being provided, but may be amenable to other drug
25 treatments or related programs, the department may move the
26 court to modify the terms of probation to ensure that the
27 defendant receives the alternative drug treatment or program.

28 2. If at any point during the course of drug treatment
29 the treatment provider notifies the Department of Corrections
30 that the defendant is unamenable to the drug treatment
31 provided and all other forms of drug treatment, the department

1 may move to revoke probation. At the revocation hearing,
2 unless the defendant proves by a preponderance of the evidence
3 that there is a drug treatment program to which he or she is
4 amenable, the court may revoke probation.

5 (c) Drug treatment services provided by subsection (3)
6 as a required condition of probation may not exceed 12 months,
7 provided, however, that additional aftercare services as a
8 condition of probation may be required for up to 6 months.

9 (5) DISMISSAL OF CHARGES UPON SUCCESSFUL COMPLETION OF
10 DRUG TREATMENT.--

11 (a) At any time after completion of drug treatment, a
12 defendant may petition the sentencing court for dismissal of
13 the charges. If the court finds that the defendant
14 successfully completed drug treatment, and substantially
15 complied with the conditions of probation, the conviction on
16 which the probation was based shall be set aside and the court
17 shall dismiss the indictment or information against the
18 defendant. In addition, the arrest on which the conviction
19 was based shall be deemed to have never occurred. Except as
20 provided in paragraph (b), the defendant shall thereafter be
21 released from all penalties and disabilities resulting from
22 the offense for which he or she has been convicted.

23 (b)1. Dismissal of an indictment or information
24 pursuant to paragraph (a) does not permit a person to own,
25 possess, or have in his or her custody or control any firearm
26 capable of being concealed upon the person or prevent his or
27 her conviction under s. 790.23.

28 2. Except as provided in paragraph (c), after an
29 indictment or information is dismissed pursuant to paragraph
30 (a), the defendant may indicate in response to any question
31

1 concerning his or her prior criminal record that he or she was
2 not arrested or convicted for the offense.

3 3. Except as provided in paragraph (c), a record
4 pertaining to an arrest or conviction resulting in successful
5 completion of a drug treatment program under this section
6 shall not, without the defendant's consent, be used in any way
7 that could result in the denial of any employment, benefit,
8 license, or certificate.

9 (c) Regardless of his or her successful completion of
10 drug treatment, the arrest and conviction on which the
11 probation was based may be recorded by the Department of
12 Corrections and disclosed in response to any law enforcement
13 officer application request or any law enforcement inquiry.
14 Dismissal of an information or indictment under this section
15 does not relieve a defendant of the obligation to disclose the
16 arrest and conviction in response to any direct question
17 contained in any questionnaire or application for public
18 office, for a position as a law enforcement officer, for
19 licensure by any state or local agency, for contracting with
20 the State Lottery, or for purposes of serving on a jury.

21 (6) VIOLATION OF PROBATION.--

22 (a) Revocation of probation and incarceration;
23 generally.--If probation is revoked pursuant to the provisions
24 of this subsection, the defendant may be incarcerated pursuant
25 to otherwise applicable law without regard to the provisions
26 of this section.

27 (b) Non-drug-related probation violations.--Where a
28 defendant receives probation under subsection (3), and
29 violates that probation either by being arrested for an
30 offense that is not a nonviolent drug possession offense or by
31 violating a non-drug-related condition of probation, and the

1 state moves to revoke probation, the court shall conduct a
2 hearing to determine whether probation shall be revoked. The
3 court may modify or revoke probation if the alleged violation
4 is proved.

5 (c) Drug-related probation violations.--

6 1. Where a defendant receives probation under
7 subsection (3), and violates that probation either by being
8 arrested for a nonviolent drug possession offense or by
9 violating a drug-related condition of probation, and the state
10 moves to revoke probation, the court shall conduct a hearing
11 to determine whether probation shall be revoked. The trial
12 court shall revoke probation if the alleged probation
13 violation is proved and the state proves by a preponderance of
14 the evidence that the defendant poses a danger to the safety
15 of others. If the court does not revoke probation, it may
16 intensify or alter the drug treatment plan.

17 2. Where a defendant receives probation under
18 subsection (3), and for the second time violates that
19 probation either by being arrested for a nonviolent drug
20 possession offense or by violating a drug-related condition of
21 probation, and the state moves for a second time to revoke
22 probation, the court shall conduct a hearing to determine
23 whether probation shall be revoked. The trial court shall
24 revoke probation if the alleged probation violation is proved
25 and the state proves by a preponderance of the evidence either
26 that the defendant poses a danger to the safety of others or
27 is unamenable to drug treatment. In determining whether a
28 defendant is unamenable to drug treatment, the court may
29 consider, to the extent relevant, whether the defendant has
30 committed a serious violation of rules at the drug treatment
31 program, has repeatedly committed violations of program rules

1 that inhibit the defendant's ability to function in the
2 program, or has continually refused to participate in the
3 program or asked to be removed from the program. If the court
4 does not revoke probation, it may intensify or alter the drug
5 treatment plan.

6 3. Where a defendant receives probation under
7 subsection (3), and for the third time violates that probation
8 either by being arrested for a nonviolent drug possession
9 offense or by violating a drug-related condition of probation,
10 and the state moves for a third time to revoke probation, the
11 court shall conduct a hearing to determine whether probation
12 shall be revoked. If the alleged probation violation is
13 proved, the defendant is not eligible for continued probation
14 under subsection (3).

15 4. Where a defendant on probation on the effective
16 date of this section for a nonviolent drug possession offense
17 violates that probation either by being arrested for a
18 nonviolent drug possession offense or by violating a
19 drug-related condition of probation, and the state moves to
20 revoke probation, the court shall conduct a hearing to
21 determine if probation shall be revoked. The trial court
22 shall revoke probation if the alleged probation violation is
23 proved and the state proves by a preponderance of the evidence
24 that the defendant poses a danger to the safety of others. If
25 the court does not revoke probation, it may modify probation
26 and impose as an additional condition participation in a drug
27 treatment program.

28 5. Where a defendant on probation on the effective
29 date of this section for a nonviolent drug possession offense
30 violates that probation a second time either by being arrested
31 for a nonviolent drug possession offense or by violating a

1 drug-related condition of probation, and the state moves for a
2 second time to revoke probation, the court shall conduct a
3 hearing to determine whether probation shall be revoked. The
4 trial court shall revoke probation if the alleged probation
5 violation is proved and the state proves by a preponderance of
6 the evidence either that the defendant poses a danger to the
7 safety of others or is unamenable to drug treatment. If the
8 court does not revoke probation, it may modify probation and
9 impose as an additional condition participation in a drug
10 treatment program.

11 6. Where a defendant on probation on the effective
12 date of this section for a nonviolent drug offense violates
13 that probation a third time either by being arrested for a
14 nonviolent drug possession offense or by violating a
15 drug-related condition of probation, and the state moves for a
16 third time to revoke probation, the court shall conduct a
17 hearing to determine whether probation shall be revoked. If
18 the alleged probation violation is proved, the defendant is
19 not eligible for continued probation under subsection (3).

20 Section 4. Section 949.153, Florida Statutes, is
21 created to read:

22 949.153 Drug Abuse and Crime Prevention Act; funding;
23 studies; reports; audits.--

24 (1) APPROPRIATIONS.--On July 1, 2002, \$30 million
25 shall be continuously appropriated from the General Revenue
26 Fund to the Drug Abuse Treatment Trust Fund for the 2001-2002
27 fiscal year. There is hereby continuously appropriated from
28 the General Revenue Fund to the Drug Abuse Treatment Trust
29 Fund an additional \$60 million annually for each subsequent
30 fiscal year concluding with the 2006-2007 fiscal year. These
31 funds shall be transferred to the Drug Abuse Treatment Trust

1 Fund on July 1 of each of the specified fiscal years. Funds
2 transferred to the Drug Abuse Treatment Trust Fund are not
3 subject to annual appropriation by the Legislature and may be
4 used without a time limit. Nothing in this subsection
5 precludes additional appropriations by the Legislature to the
6 Drug Abuse Treatment Trust Fund.

7 (2) DISTRIBUTION OF FUNDS.--Funds deposited in the
8 Drug Abuse Treatment Trust Fund shall be distributed annually
9 by the Department of Corrections to the counties to cover the
10 costs of providing and placing persons in drug treatment
11 programs and vocational training, family counseling, and
12 literacy training under the Drug Abuse and Crime Prevention
13 Act. Additional costs that may be reimbursed from the Drug
14 Abuse Treatment Trust Fund include costs to the Department of
15 Corrections of its probation-related duties, court-monitoring
16 costs, and any miscellaneous costs made necessary by the
17 provisions of the Drug Abuse and Crime Prevention Act other
18 than drug-testing services of any kind. Such funds shall be
19 allocated to the counties through a fair and equitable
20 distribution formula that includes, but is not limited to, per
21 capita arrests for drug possession violations and drug
22 treatment caseload, as determined by the Department of
23 Corrections as necessary to carry out the purposes of the Drug
24 Abuse and Crime Prevention Act. The Department of Corrections
25 may reserve a portion of the funds to pay for direct contracts
26 with drug treatment service providers in counties or areas in
27 which the Secretary of Corrections has determined that demand
28 for drug treatment services is not adequately met by existing
29 programs. However, nothing in this subsection shall be
30 interpreted or construed to allow any entity to use funds from
31 the Drug Abuse Treatment Trust Fund to supplant funds from any

1 existing fund source or mechanism currently used to provide
2 drug treatment.

3 (3) LOCAL GOVERNMENT AUTHORITY TO CONTROL LOCATION OF
4 DRUG TREATMENT PROGRAMS.--Notwithstanding any other provision
5 of law, no community drug treatment program may receive any
6 funds from the Drug Abuse Treatment Trust Fund unless the
7 program agrees to make its facilities subject to valid local
8 government zoning ordinances and development agreements.

9 (4) EVALUATION STUDIES.--

10 (a) Annual.--The Department of Corrections shall
11 annually conduct a study to evaluate the effectiveness and
12 financial impact of the programs which are funded pursuant to
13 the Drug Abuse and Crime Prevention Act. The study shall
14 include, but not be limited to, a study of the implementation
15 process and a review of lower incarceration costs, reductions
16 in crime, reduced prison and jail construction, reduced
17 welfare costs, the adequacy of funds appropriated, and any
18 other impacts or issues the department can identify.

19 (b) Long term.--The Department of Corrections shall
20 allocate up to 0.5 percent of the total funds of the Drug
21 Abuse Treatment Trust Fund each year for a long-term study to
22 be conducted by a public university in this state aimed at
23 evaluating the effectiveness and financial impact of the
24 programs that are funded pursuant to the Drug Abuse and Crime
25 Prevention Act.

26 (5) COUNTY REPORTS.--The counties shall submit a
27 report annually to the Department of Corrections detailing the
28 numbers and characteristics of individuals served as a result
29 of funding provided by the Drug Abuse and Crime Prevention
30 Act. The department shall promulgate a form which shall be
31 used by the counties for the reporting of this information, as

1 well as any other information that may be required by the
2 department. The department shall establish a deadline by
3 which the counties shall submit their reports.

4 (6) AUDIT OF EXPENDITURES.--The Department of
5 Corrections shall annually audit the expenditures made by any
6 county which is funded, in whole or in part, with funds
7 provided by the Drug Abuse and Crime Prevention Act. Counties
8 shall repay to the department any funds that are not spent in
9 accordance with the requirements of the Drug Abuse and Crime
10 Prevention Act.

11 (7) UNUSED FUNDS.--

12 (a) Any funds remaining in the Drug Abuse Treatment
13 Trust Fund at the end of a fiscal year may be used to pay for
14 drug treatment programs to be carried out in the subsequent
15 fiscal year.

16 (b) At the end of each fiscal year, a county may
17 retain unused funds received from the Drug Abuse Treatment
18 Trust Fund and may spend those funds, if approved by the
19 Department of Corrections, on drug programs that further the
20 purposes of the Drug Abuse and Crime Prevention Act.

21 Section 5. This act shall take effect July 1, 2002, if
22 House Bill ... or similar legislation creating the Drug Abuse
23 Treatment Trust Fund is adopted in the same legislative
24 session or an extension thereof and becomes law.

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HOUSE SUMMARY

Creates the Drug Abuse and Crime Prevention Act as a supplementary intervention program for certain nonviolent drug offenders.

Provides for drug treatment in lieu of reincarceration of certain parolees who commit a nonviolent drug possession offense or violate any drug-related condition of their parole. Authorizes requiring parolees who are reasonably able to do so to contribute to the cost of their placement in a drug treatment program. Provides findings and intent, definitions, and conditions and requirements for such treatment. Provides for modification or revocation of parole for failure to successfully complete treatment.

Provides for mandatory probation of certain persons convicted of a nonviolent drug possession offense. Requires drug treatment as a condition of such probation. Authorizes requiring probationers who are reasonably able to do so to contribute to the cost of their placement in a drug treatment program and authorizes other conditions of such probation. Provides findings and intent, definitions, and requirements for such treatment. Provides for dismissal of charges upon successful completion of such treatment. Provides for modification or revocation of probation for failure to successfully complete treatment.

Appropriates funds for the Drug Abuse and Crime Prevention Act for a specified period and provides for distribution and use of funds. Provides for local control of drug treatment program location. Provides for annual and long-term evaluation studies. Requires annual county reports to the Department of Corrections. Provides for audit of county expenditures. Provides for carryforward and use of unused funds from fiscal year to fiscal year.

See bill for details.