



HB 0669

2003

1 A bill to be entitled

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



HB 0669

2003

31 membership of the committee; revising language with
 32 respect to an annual report; amending s. 910.035, F.S.;
 33 revising language with respect to conditions for the
 34 transfer of a case in the drug court treatment program to
 35 a county other than that in which the charge arose;
 36 amending s. 948.08, F.S.; revising eligibility
 37 requirements for participation in pretrial intervention
 38 programs; authorizing the court to refer certain
 39 defendants who are assessed with a substance abuse problem
 40 to a pretrial intervention program with the approval of
 41 the state attorney; deleting provisions authorizing
 42 advisory committees for the district pretrial intervention
 43 programs; amending s. 985.306, F.S.; revising eligibility
 44 requirements for participation in delinquency pretrial
 45 intervention programs; authorizing the court to refer
 46 certain juveniles who are assessed as having a substance
 47 abuse problem to a substance abuse education and treatment
 48 intervention program; deleting provisions authorizing
 49 advisory committees for the district delinquency pretrial
 50 intervention program; providing an effective date.

51
 52 Be It Enacted by the Legislature of the State of Florida:

53
 54 Section 1. Subsection (4) of section 39.001, Florida
 55 Statutes, is amended to read:

56 39.001 Purposes and intent; personnel standards and
 57 screening.--

58 (4) SUBSTANCE ABUSE SERVICES.--

59 (a) The Legislature recognizes that substance abuse is a
 60 primary cause of the dramatic rise in cases of child abuse and



HB 0669

2003

61 neglect, immeasurably increases the complexity of cases in the
62 dependency system, severely compromises or destroys the ability
63 of parents to provide a safe and nurturing home for children,
64 and severely confounds the dependency system's ability to
65 protect children. The Legislature also recognizes that early
66 referral and comprehensive treatment can help combat substance
67 abuse in families and that treatment is cost-effective. The
68 Legislature further recognizes that treatment-based drug court
69 program models that integrate judicial supervision, treatment,
70 accountability, sanctions, and community support greatly
71 increase the effectiveness of substance abuse treatment and
72 reduce the number of cases of child abuse and neglect.

73 (b) The substance abuse treatment and family safety
74 programs of the Department of Children and Family Services have
75 identified the following goals for this state:

76 1. Ensure the safety of children.
77 2. Prevent and remediate the consequences of substance
78 abuse on families involved in protective supervision or foster
79 care and reduce substance abuse, including alcohol abuse, for
80 families who are at risk of being involved in protective
81 supervision or foster care.

82 3. Expedite permanency for children and reunify healthy,
83 intact families, when appropriate.

84 4. Support families in recovery.

85 (c) The Legislature finds that children in the care of the
86 state's dependency system need appropriate health care services,
87 that the impact of substance abuse on health indicates the need
88 for health care services to include substance abuse services to
89 children and parents where appropriate, and that it is in the
90 state's best interest that such children be provided the



HB 0669

2003

91 services they need to enable them to become and remain
92 independent of state care. In order to provide these services,
93 the state's dependency system must have the ability to identify
94 and provide appropriate intervention and treatment for children
95 with personal or family-related substance abuse problems.

96 (d) Parents and children should be assessed early and
97 continually in the process, but not later than the conference
98 date of the case planning process, to identify substance abuse
99 problems and appropriately address the severity of the substance
100 abuse problem. Participation in treatment, including a
101 treatment-based drug court program, may be required by the court
102 following adjudication. This subsection does not prevent a
103 child's parent, and, when appropriate, the legal custodian, from
104 voluntarily entering treatment, including a treatment-based drug
105 court program, at the earliest stage of the process.

106 (e) It is therefore the purpose of the Legislature to
107 provide authority for the state to contract with community
108 substance abuse treatment providers for the development and
109 operation of specialized support and overlay services for the
110 dependency system, which will be fully implemented and used
111 utilized as resources permit.

112 (f) It is the intent of the Legislature to encourage the
113 Department of Children and Family Services, in conjunction with
114 community agencies; treatment-based facilities; facilities
115 dedicated to child welfare, child development, and mental health
116 services; the Department of Health; other similar agencies;
117 local governments; law enforcement agencies; and other
118 interested public or private sources to support the drug court
119 program model. Participation in the treatment-based drug court
120 program does not divest any public or private agency of its



HB 0669

2003

121 responsibility for a child or adult, but enables these agencies
122 to better meet their needs through shared responsibility and
123 resources.

124 Section 2. Present subsections (11) through (16) of
125 section 39.402, Florida Statutes, are renumbered as subsections
126 (12) through (17), respectively, and a new subsection (11) is
127 added to said section, to read:

128 39.402 Placement in a shelter.--

129 (11) At the shelter hearing, if the mental or physical
130 condition of a child or the child's parent, caregiver, legal
131 custodian, or other person requesting custody of the child is in
132 controversy, the court may order the person to submit to a
133 substance abuse assessment or evaluation. The assessment or
134 evaluation must be administered by a qualified professional, as
135 defined in s. 397.311. The order may be made only upon good
136 cause shown and pursuant to the notice and procedures set forth
137 in the Florida Rules of Juvenile Procedure.

138 Section 3. Section 39.407, Florida Statutes, is amended to
139 read:

140 39.407 Medical, psychiatric, and psychological examination
141 and treatment of child; physical, ~~or~~ mental, or substance abuse
142 examination of parent or person requesting custody of child.--

143 (1) When any child is removed from the home and maintained
144 in an out-of-home placement, the department is authorized to
145 have a medical screening performed on the child without
146 authorization from the court and without consent from a parent
147 or legal custodian. Such medical screening shall be performed by
148 a licensed health care professional and shall be to examine the
149 child for injury, illness, and communicable diseases and to
150 determine the need for immunization. The department shall by



HB 0669

2003

151 rule establish the invasiveness of the medical procedures
152 authorized to be performed under this subsection. In no case
153 does this subsection authorize the department to consent to
154 medical treatment for such children.

155 (2) When the department has performed the medical
156 screening authorized by subsection (1), or when it is otherwise
157 determined by a licensed health care professional that a child
158 who is in an out-of-home placement, but who has not been
159 committed to the department, is in need of medical treatment,
160 including the need for immunization, consent for medical
161 treatment shall be obtained in the following manner:

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

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

165 (b) If a parent or legal custodian of the child is
166 unavailable and his or her whereabouts cannot be reasonably
167 ascertained, and it is after normal working hours so that a
168 court order cannot reasonably be obtained, an authorized agent
169 of the department shall have the authority to consent to
170 necessary medical treatment, including immunization, for the
171 child. The authority of the department to consent to medical
172 treatment in this circumstance shall be limited to the time
173 reasonably necessary to obtain court authorization.

174 (c) If a parent or legal custodian of the child is
175 available but refuses to consent to the necessary treatment,
176 including immunization, a court order shall be required unless
177 the situation meets the definition of an emergency in s. 743.064
178 or the treatment needed is related to suspected abuse,
179 abandonment, or neglect of the child by a parent, caregiver, or
180 legal custodian. In such case, the department shall have the



HB 0669

2003

181 authority to consent to necessary medical treatment. This
182 authority is limited to the time reasonably necessary to obtain
183 court authorization.

184

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

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

189 (b) The judge may also order such child to be evaluated by
190 a psychiatrist or a psychologist or, if a developmental
191 disability is suspected or alleged, by the developmental
192 disability diagnostic and evaluation team of the department. If
193 it is necessary to place a child in a residential facility for
194 such evaluation, the criteria and procedure established in s.
195 394.463(2) or chapter 393 shall be used, whichever is
196 applicable.

197 (c) The judge may also order such child to be evaluated by
198 a district school board educational needs assessment team. The
199 educational needs assessment provided by the district school
200 board educational needs assessment team shall include, but not
201 be limited to, reports of intelligence and achievement tests,
202 screening for learning disabilities and other handicaps, and
203 screening for the need for alternative education as defined in
204 s. 1001.42.

205 (4) A judge may order a child in an out-of-home placement
206 to be treated by a licensed health care professional based on
207 evidence that the child should receive treatment. The judge may
208 also order such child to receive mental health or developmental
209 disabilities services from a psychiatrist, psychologist, or
210 other appropriate service provider. Except as provided in



HB 0669

2003

211 subsection (5), if it is necessary to place the child in a
 212 residential facility for such services, the procedures and
 213 criteria established in s. 394.467 or chapter 393 shall be used,
 214 whichever is applicable. A child may be provided developmental
 215 disabilities or mental health services in emergency situations,
 216 pursuant to the procedures and criteria contained in s.
 217 394.463(1) or chapter 393, whichever is applicable.

218 (5) Children who are in the legal custody of the
 219 department may be placed by the department, without prior
 220 approval of the court, in a residential treatment center
 221 licensed under s. 394.875 or a hospital licensed under chapter
 222 395 for residential mental health treatment only pursuant to
 223 this section or may be placed by the court in accordance with an
 224 order of involuntary examination or involuntary placement
 225 entered pursuant to s. 394.463 or s. 394.467. All children
 226 placed in a residential treatment program under this subsection
 227 must have a guardian ad litem appointed.

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

229 1. "Residential treatment" means placement for
 230 observation, diagnosis, or treatment of an emotional disturbance
 231 in a residential treatment center licensed under s. 394.875 or a
 232 hospital licensed under chapter 395.

233 2. "Least restrictive alternative" means the treatment and
 234 conditions of treatment that, separately and in combination, are
 235 no more intrusive or restrictive of freedom than reasonably
 236 necessary to achieve a substantial therapeutic benefit or to
 237 protect the child or adolescent or others from physical injury.

238 3. "Suitable for residential treatment" or "suitability"
 239 means a determination concerning a child or adolescent with an
 240 emotional disturbance as defined in s. 394.492(5) or a serious



HB 0669

2003

241 emotional disturbance as defined in s. 394.492(6) that each of
242 the following criteria is met:

243 a. The child requires residential treatment.

244 b. The child is in need of a residential treatment program
245 and is expected to benefit from mental health treatment.

246 c. An appropriate, less restrictive alternative to
247 residential treatment is unavailable.

248 (b) Whenever the department believes that a child in its
249 legal custody is emotionally disturbed and may need residential
250 treatment, an examination and suitability assessment must be
251 conducted by a qualified evaluator who is appointed by the
252 Agency for Health Care Administration. This suitability
253 assessment must be completed before the placement of the child
254 in a residential treatment center for emotionally disturbed
255 children and adolescents or a hospital. The qualified evaluator
256 must be a psychiatrist or a psychologist licensed in Florida who
257 has at least 3 years of experience in the diagnosis and
258 treatment of serious emotional disturbances in children and
259 adolescents and who has no actual or perceived conflict of
260 interest with any inpatient facility or residential treatment
261 center or program.

262 (c) Before a child is admitted under this subsection, the
263 child shall be assessed for suitability for residential
264 treatment by a qualified evaluator who has conducted a personal
265 examination and assessment of the child and has made written
266 findings that:

267 1. The child appears to have an emotional disturbance
268 serious enough to require residential treatment and is
269 reasonably likely to benefit from the treatment.



HB 0669

2003

270 2. The child has been provided with a clinically
271 appropriate explanation of the nature and purpose of the
272 treatment.

273 3. All available modalities of treatment less restrictive
274 than residential treatment have been considered, and a less
275 restrictive alternative that would offer comparable benefits to
276 the child is unavailable.

277
278 A copy of the written findings of the evaluation and suitability
279 assessment must be provided to the department and to the
280 guardian ad litem, who shall have the opportunity to discuss the
281 findings with the evaluator.

282 (d) Immediately upon placing a child in a residential
283 treatment program under this section, the department must notify
284 the guardian ad litem and the court having jurisdiction over the
285 child and must provide the guardian ad litem and the court with
286 a copy of the assessment by the qualified evaluator.

287 (e) Within 10 days after the admission of a child to a
288 residential treatment program, the director of the residential
289 treatment program or the director's designee must ensure that an
290 individualized plan of treatment has been prepared by the
291 program and has been explained to the child, to the department,
292 and to the guardian ad litem, and submitted to the department.
293 The child must be involved in the preparation of the plan to the
294 maximum feasible extent consistent with his or her ability to
295 understand and participate, and the guardian ad litem and the
296 child's foster parents must be involved to the maximum extent
297 consistent with the child's treatment needs. The plan must
298 include a preliminary plan for residential treatment and
299 aftercare upon completion of residential treatment. The plan



HB 0669

2003

300 must include specific behavioral and emotional goals against
301 which the success of the residential treatment may be measured.
302 A copy of the plan must be provided to the child, to the
303 guardian ad litem, and to the department.

304 (f) Within 30 days after admission, the residential
305 treatment program must review the appropriateness and
306 suitability of the child's placement in the program. The
307 residential treatment program must determine whether the child
308 is receiving benefit toward the treatment goals and whether the
309 child could be treated in a less restrictive treatment program.
310 The residential treatment program shall prepare a written report
311 of its findings and submit the report to the guardian ad litem
312 and to the department. The department must submit the report to
313 the court. The report must include a discharge plan for the
314 child. The residential treatment program must continue to
315 evaluate the child's treatment progress every 30 days thereafter
316 and must include its findings in a written report submitted to
317 the department. The department may not reimburse a facility
318 until the facility has submitted every written report that is
319 due.

320 (g)1. The department must submit, at the beginning of each
321 month, to the court having jurisdiction over the child, a
322 written report regarding the child's progress toward achieving
323 the goals specified in the individualized plan of treatment.

324 2. The court must conduct a hearing to review the status
325 of the child's residential treatment plan no later than 3 months
326 after the child's admission to the residential treatment
327 program. An independent review of the child's progress toward
328 achieving the goals and objectives of the treatment plan must be



HB 0669

2003

329 completed by a qualified evaluator and submitted to the court
330 before its 3-month review.

331 3. For any child in residential treatment at the time a
332 judicial review is held pursuant to s. 39.701, the child's
333 continued placement in residential treatment must be a subject
334 of the judicial review.

335 4. If at any time the court determines that the child is
336 not suitable for continued residential treatment, the court
337 shall order the department to place the child in the least
338 restrictive setting that is best suited to meet his or her
339 needs.

340 (h) After the initial 3-month review, the court must
341 conduct a review of the child's residential treatment plan every
342 90 days.

343 (i) The department must adopt rules for implementing
344 timeframes for the completion of suitability assessments by
345 qualified evaluators and a procedure that includes timeframes
346 for completing the 3-month independent review by the qualified
347 evaluators of the child's progress toward achieving the goals
348 and objectives of the treatment plan which review must be
349 submitted to the court. The Agency for Health Care
350 Administration must adopt rules for the registration of
351 qualified evaluators, the procedure for selecting the evaluators
352 to conduct the reviews required under this section, and a
353 reasonable, cost-efficient fee schedule for qualified
354 evaluators.

355 (6) When a child is in an out-of-home placement, a
356 licensed health care professional shall be immediately called if
357 there are indications of physical injury or illness, or the



HB 0669

2003

358 child shall be taken to the nearest available hospital for
359 emergency care.

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

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

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

372 (10) Nothing in this section shall be construed to
373 authorize the permanent sterilization of the child unless such
374 sterilization is the result of or incidental to medically
375 necessary treatment to protect or preserve the life of the
376 child.

377 (11) For the purpose of obtaining an evaluation or
378 examination, or receiving treatment as authorized pursuant to
379 this section, no child alleged to be or found to be dependent
380 shall be placed in a detention home or other program used
381 primarily for the care and custody of children alleged or found
382 to have committed delinquent acts.

383 (12) The parents or legal custodian of a child in an out-
384 of-home placement remain financially responsible for the cost of
385 medical treatment provided to the child even if either one or
386 both of the parents or if the legal custodian did not consent to
387 the medical treatment. After a hearing, the court may order the



HB 0669

2003

388 parents or legal custodian, if found able to do so, to reimburse
389 the department or other provider of medical services for
390 treatment provided.

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

395 (14) At any time after the filing of a shelter petition or
396 petition for dependency, when the mental or physical condition,
397 including the blood group, of a parent, caregiver, legal
398 custodian, or other person requesting custody of a child is in
399 controversy, the court may order the person to submit to a
400 physical or mental examination by a qualified professional. The
401 order may be made only upon good cause shown and pursuant to
402 notice and procedures as set forth by the Florida Rules of
403 Juvenile Procedure.

404 (15) At any time after a shelter petition or petition for
405 dependency is filed, if the mental or physical condition of a
406 child or the child's parent, caregiver, legal custodian, or
407 other person requesting custody of the child is in controversy,
408 the court, if it has not already done so, may order the person
409 to submit to a substance abuse assessment and evaluation. The
410 assessment or evaluation must be administered by a qualified
411 professional, as defined in s. 397.311. The order may be made
412 only upon good cause shown and pursuant to the notice and
413 procedures set forth in the Florida Rules of Juvenile Procedure.

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

416 39.507 Adjudicatory hearings; orders of adjudication.--



HB 0669

2003

417 (9) If the mental or physical condition of a child or the
418 child's parent, caregiver, legal custodian, or other person
419 requesting custody of the child is in controversy, the court, if
420 it has not already done so, may require the person to submit to
421 a substance abuse assessment or evaluation. The assessment or
422 evaluation must be administered by a qualified professional, as
423 defined in s. 397.311. The court may also require such person to
424 participate in and comply with treatment and services identified
425 as necessary, including, when appropriate and available,
426 participation and compliance with a treatment-based drug court
427 program. The court, including the treatment-based drug court
428 program, shall oversee the progress and compliance with
429 treatment by the child or the child's parent, legal custodian,
430 caregiver, or other person requesting custody of the child, and
431 shall impose appropriate available sanctions for noncompliance
432 upon the child's parent, legal custodian, caregiver, or other
433 person requesting custody of the child. Any order entered under
434 this subsection may be made only upon good cause shown and
435 pursuant to the notice and procedures set forth in the Florida
436 Rules of Juvenile Procedure.

437 Section 5. Paragraph (b) of subsection (1) of section
438 39.521, Florida Statutes, is amended to read:

439 39.521 Disposition hearings; powers of disposition.--

440 (1) A disposition hearing shall be conducted by the court,
441 if the court finds that the facts alleged in the petition for
442 dependency were proven in the adjudicatory hearing, or if the
443 parents or legal custodians have consented to the finding of
444 dependency or admitted the allegations in the petition, have
445 failed to appear for the arraignment hearing after proper



HB 0669

2003

446 notice, or have not been located despite a diligent search
447 having been conducted.

448 (b) When any child is adjudicated by a court to be
449 dependent, the court having jurisdiction of the child has the
450 power by order to:

451 1. Require, if the court has not already done so, a child
452 or the child's parent, caregiver, legal custodian, or other
453 person requesting custody of the child to submit to a substance
454 abuse assessment or evaluation when such person's mental or
455 physical condition is in controversy. The assessment or
456 evaluation must be administered by a qualified professional, as
457 defined in s. 397.311. The court may also require such person to
458 participate in treatment and services identified as necessary,
459 including participation and compliance with a treatment-based
460 drug court program, when appropriate and if available. The
461 court, including the treatment-based drug court program, shall
462 oversee the progress and compliance with treatment by the child
463 or the child's parent, legal custodian, caregiver, or other
464 person requesting custody of the child, and shall impose
465 appropriate available sanctions for noncompliance upon the
466 child's parent, legal custodian, caregiver, or other person
467 requesting custody of the child. Any order entered under this
468 paragraph may be made only upon good cause shown and pursuant to
469 the notice and procedures set forth in the Florida Rules of
470 Juvenile Procedure. ~~the parent and, when appropriate, the legal~~
471 ~~eustodian and the child, to participate in treatment and~~
472 ~~services identified as necessary.~~

473 2. Require, if the court deems necessary, the parties to
474 participate in dependency mediation.



HB 0669

2003

475 3. Require placement of the child either under the
476 protective supervision of an authorized agent of the department
477 in the home of one or both of the child's parents or in the home
478 of a relative of the child or another adult approved by the
479 court, or in the custody of the department. Protective
480 supervision continues until the court terminates it or until the
481 child reaches the age of 18, whichever date is first. Protective
482 supervision shall be terminated by the court whenever the court
483 determines that permanency has been achieved for the child,
484 whether with a parent, another relative, or a legal custodian,
485 and that protective supervision is no longer needed. The
486 termination of supervision may be with or without retaining
487 jurisdiction, at the court's discretion, and shall in either
488 case be considered a permanency option for the child. The order
489 terminating supervision by the department shall set forth the
490 powers of the custodian of the child and shall include the
491 powers ordinarily granted to a guardian of the person of a minor
492 unless otherwise specified. Upon the court's termination of
493 supervision by the department, no further judicial reviews are
494 required, so long as permanency has been established for the
495 child.

496 Section 6. Paragraph (d) of subsection (8) of section
497 39.701, Florida Statutes, is amended to read:

498 39.701 Judicial review.--

499 (8)

500 (d) The court may extend the time limitation of the case
501 plan, or may modify the terms of the plan, which, in addition to
502 other modifications, may include a requirement that the parent,
503 foster parent, or legal custodian participate in a treatment-
504 based drug court program, based upon information provided by the



HB 0669

2003

505 social service agency, and the guardian ad litem, if one has
 506 been appointed, the parent or parents, and the foster parents or
 507 legal custodian, and any other competent information on record
 508 demonstrating the need for the amendment. If the court extends
 509 the time limitation of the case plan, the court must make
 510 specific findings concerning the frequency of past parent-child
 511 visitation, if any, and the court may authorize the expansion or
 512 restriction of future visitation. Modifications to the plan must
 513 be handled as prescribed in s. 39.601. Any extension of a case
 514 plan must comply with the time requirements and other
 515 requirements specified by this chapter.

516 Section 7. Section 397.334, Florida Statutes, is amended
 517 to read:

518 397.334 Treatment-based drug court programs.--

519 (1) It is the intent of the Legislature to implement
 520 treatment-based drug court programs in each judicial circuit in
 521 an effort to reduce crime and recidivism, abuse and neglect
 522 cases, and family dysfunction by breaking the cycle of
 523 addiction, which is the most predominant cause of cases entering
 524 the justice system. The Legislature recognizes that the
 525 integration of judicial supervision, treatment, accountability,
 526 ~~and sanctions~~, and community support greatly increases the
 527 effectiveness of substance abuse treatment. The Legislature
 528 also seeks to ensure that there is a coordinated, integrated,
 529 and multidisciplinary response to the substance abuse problem in
 530 this state, with special attention given to the creation of
 531 ~~creating~~ partnerships among ~~between~~ the public, community, and
 532 private sectors and to the coordinated, supported, and
 533 integrated delivery of multiple-system services for substance



HB 0669

2003

534 abusers, including a ~~multiagency~~ team approach to service
535 delivery and aftercare services.

536 (2) Each judicial circuit shall establish a model of a
537 treatment-based drug court program under which persons in the
538 justice system assessed with a substance abuse problem will be
539 processed in such a manner as to appropriately address the
540 severity of the identified substance abuse problem through
541 treatment services plans tailored to the individual needs of the
542 participant. These treatment-based drug court program models may
543 be established in the misdemeanor, felony, family, delinquency,
544 and dependency divisions of the judicial circuits. It is the
545 intent of the Legislature to encourage the Department of
546 Corrections, the Department of Children and Family Services, the
547 Department of Juvenile Justice, the Department of Health, the
548 Department of Law Enforcement, the Department of Education, and
549 other such ~~other~~ agencies, local governments, law enforcement
550 agencies, ~~and~~ other interested public or private sources, and
551 individuals to support the creation and establishment of these
552 problem-solving court programs. Participation in the treatment-
553 based drug court programs does not divest any public or private
554 agency of its responsibility for a child or adult, but enables
555 ~~allows~~ these agencies to better meet their needs through shared
556 responsibility and resources.

557 (3) The treatment-based drug court programs shall include
558 therapeutic jurisprudence and restorative justice principles and
559 adhere to the following 10 key components, recognized by the
560 Drug Courts Program Office of the Office of Justice Programs of
561 the United States Department of Justice and adopted by the
562 Florida Supreme Court Treatment-Based Drug Court Steering
563 Committee:



HB 0669

2003

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

566 (b) Using a nonadversarial approach, prosecution and
567 defense counsel promote public safety while protecting
568 participants' due process rights.

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

571 (d) Drug court programs provide access to a continuum of
572 alcohol, drug, and other related treatment and rehabilitation
573 services.

574 (e) Abstinence is monitored by frequent testing for
575 alcohol and other drugs.

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

578 (g) Ongoing judicial interaction with each drug court
579 program participant is essential.

580 (h) Monitoring and evaluation measure the achievement of
581 program goals and gauge program effectiveness.

582 (i) Continuing interdisciplinary education promotes
583 effective drug court program planning, implementation, and
584 operations.

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

588 (4) Treatment-based drug court programs may include
589 pretrial intervention programs as provided in ss. 948.08,
590 948.16, and 985.306, post adjudicatory programs, and the
591 monitoring of sentenced offenders through a treatment-based drug
592 court program. Supervision may also be provided for offenders



HB 0669

2003

593 who transfer from jail or a prison-based treatment program into
594 the community.

595 (5) Contingent upon an annual appropriation by the
596 Legislature, each judicial circuit shall establish, at a
597 minimum, one coordinator position for the treatment-based drug
598 court program within the state courts system to coordinate the
599 responsibilities of the participating agencies and service
600 providers. Each coordinator shall provide direct support to the
601 treatment-based drug court program by providing coordination
602 between the multidisciplinary team and the judiciary, providing
603 case management, monitoring compliance of the participants in
604 the treatment-based drug court program with court requirements,
605 and providing program evaluation and accountability.

606 (6)(5)(a) The Florida Association of Drug Court ~~Program~~
607 Professionals is created. The membership of the association may
608 consist of treatment-based drug court program practitioners who
609 comprise the multidisciplinary treatment-based drug court
610 program team, including, but not limited to, judges, state
611 attorneys, defense counsel, ~~drug court~~ program coordinators,
612 probation officers, law enforcement officers, community
613 representatives, members of the academic community, and
614 treatment professionals. Membership in the association shall be
615 voluntary.

616 (b) The association shall annually elect a chair whose
617 duty is to solicit recommendations from members on issues
618 relating to the expansion, operation, and institutionalization
619 of treatment-based drug court programs. The chair is
620 responsible for providing the association's recommendations
621 together with a report each year, on or before October 1, to the
622 appropriate Supreme Court committee or personnel of the Office



HB 0669

2003

623 of the State Courts Administrator ~~Supreme Court Treatment-Based~~
624 ~~Drug Court Steering Committee, and shall submit a report each~~
625 ~~year, on or before October 1, to the steering committee.~~

626 (7) The chief judge of each judicial circuit may appoint
627 an advisory committee for the treatment-based drug court
628 program. The committee shall be composed of the chief judge or
629 his or her designee, who shall serve as chair; the judge of the
630 treatment-based drug court program, if not otherwise designated
631 by the chief judge as his or her designee; the state attorney,
632 or his or her designee; the public defender, or his or her
633 designee; the treatment-based drug court program coordinators;
634 community representatives; and any other persons the chair finds
635 are appropriate.

636 Section 8. Subsection (5) of section 910.035, Florida
637 Statutes, is amended to read:

638 910.035 Transfer from county for plea and sentence.--

639 (5) Any person eligible for participation in a drug court
640 treatment program pursuant to s. 948.08(6) may be eligible to
641 have the case transferred to a county other than that in which
642 the charge arose if the drug court program agrees and if the
643 following conditions are met:

644 (a) The authorized representative of the drug court
645 program of the county requesting to transfer the case shall
646 consult with the authorized representative of the drug court
647 program in the county to which transfer is desired.

648 (b) If approval for transfer is received from all parties,
649 the trial court shall accept a plea of nolo contendere and enter
650 a transfer order directing the clerk to transfer the case to the
651 county which has accepted the defendant into its drug court
652 program.



HB 0669

2003

653 (c) The transfer order shall include a copy of the
654 probable cause affidavit; any charging documents in the case;
655 all reports, witness statements, test results, evidence lists,
656 and other documents in the case; the defendant's mailing address
657 and phone number; and the defendant's written consent to abide
658 by the rules and procedures of the receiving county's drug court
659 program.

660 (d) After the transfer takes place, the clerk shall set
661 the matter for a hearing before the drug court program judge and
662 the court shall ensure the defendant's entry into the drug court
663 program.

664 (e) Upon successful completion of the drug court program,
665 the jurisdiction to which the case has been transferred shall
666 dispose of the case pursuant to s. 948.08(6). If the defendant
667 does not complete the drug court program successfully, the
668 jurisdiction to which the case has been transferred shall
669 dispose of the case within the guidelines of the Criminal
670 Punishment Code ~~case shall be prosecuted as determined by the~~
671 ~~state attorneys of the sending and receiving counties.~~

672 Section 9. Subsections (6), (7), and (8) of section
673 948.08, Florida Statutes, are amended to read:

674 948.08 Pretrial intervention program.--

675 (6)(a) Notwithstanding any provision of this section, a
676 person who is charged with a felony of the second or third
677 degree for purchase or possession of a controlled substance
678 under chapter 893, prostitution, tampering with evidence,
679 solicitation for purchase of a controlled substance, or
680 obtaining a prescription by fraud; who has not been charged with
681 a crime involving violence, including, but not limited to,
682 murder, sexual battery, robbery, carjacking, home-invasion



HB 0669

2003

683 robbery, or any other crime involving violence; and who has not
684 previously been convicted of a felony ~~nor been admitted to a~~
685 ~~felony pretrial program referred to in this section~~ is eligible
686 for admission into a pretrial substance abuse education and
687 treatment intervention program approved by the chief judge of
688 the circuit, for a period of not less than 1 year in duration,
689 upon motion of either party or the court's own motion, except:

690 ~~1. If a defendant was previously offered admission to a~~
691 ~~pretrial substance abuse education and treatment intervention~~
692 ~~program at any time prior to trial and the defendant rejected~~
693 ~~that offer on the record, then the court or the state attorney~~
694 ~~may deny the defendant's admission to such a program.~~

695 1.2. If the state attorney believes that the facts and
696 circumstances of the case suggest the defendant's involvement in
697 the dealing and selling of controlled substances, the court
698 shall hold a preadmission hearing. If the state attorney
699 establishes, by a preponderance of the evidence at such hearing,
700 that the defendant was involved in the dealing or selling of
701 controlled substances, the court shall deny the defendant's
702 admission into a pretrial intervention program.

703 2. A defendant assessed with a substance abuse problem who
704 is charged for the first time with a nonviolent third degree
705 felony and a defendant assessed with a substance abuse problem
706 who has previously been convicted of a nonviolent third degree
707 felony who is charged with a second or subsequent nonviolent
708 third degree felony may, with the approval of the state
709 attorney, be referred to the program outlined in this
710 subsection. Upon successful completion of the program, the
711 defendant is entitled to dismissal of the pending charge
712 involving a nonviolent third degree felony.



HB 0669

2003

713 (b) At the end of the pretrial intervention period, the
714 court shall consider the recommendation of the administrator
715 pursuant to subsection (5) and the recommendation of the state
716 attorney as to disposition of the pending charges. The court
717 shall determine, by written finding, whether the defendant has
718 successfully completed the pretrial intervention program.

719 (c)1. If the court finds that the defendant has not
720 successfully completed the pretrial intervention program, the
721 court may order the person to continue in education and
722 treatment or order that the charges revert to normal channels
723 for prosecution.

724 2. The court shall dismiss the charges upon a finding that
725 the defendant has successfully completed the pretrial
726 intervention program.

727 (d) Any entity, whether public or private, providing a
728 pretrial substance abuse education and treatment intervention
729 program under this subsection must contract with the county or
730 appropriate governmental entity, and the terms of the contract
731 must include, but need not be limited to, the requirements
732 established for private entities under s. 948.15(3).

733 ~~(7) The chief judge in each circuit may appoint an~~
734 ~~advisory committee for the pretrial intervention program~~
735 ~~composed of the chief judge or his or her designee, who shall~~
736 ~~serve as chair; the state attorney, the public defender, and the~~
737 ~~program administrator, or their designees; and such other~~
738 ~~persons as the chair deems appropriate. The advisory committee~~
739 ~~may not designate any defendant eligible for a pretrial~~
740 ~~intervention program for any offense that is not listed under~~
741 ~~paragraph (6)(a) without the state attorney's recommendation and~~
742 ~~approval. The committee may also include persons representing~~



HB 0669

2003

743 ~~any other agencies to which persons released to the pretrial~~
744 ~~intervention program may be referred.~~

745 ~~(7)(8)~~ The department may contract for the services and
746 facilities necessary to operate pretrial intervention programs.

747 Section 10. Section 985.306, Florida Statutes, is amended
748 to read:

749 985.306 Delinquency pretrial intervention program.--

750 (1)~~(a)~~ Notwithstanding any provision of law to the
751 contrary, a child who is charged ~~under chapter 893~~ with a
752 misdemeanor; a felony of the second or third degree for purchase
753 or possession of a controlled substance under chapter 893;
754 tampering with evidence, solicitation for purchase of a
755 controlled substance, or obtaining a prescription by fraud, and
756 who has not previously been adjudicated for a felony ~~nor been~~
757 ~~admitted to a delinquency pretrial intervention program under~~
758 ~~this section~~, is eligible for admission into a delinquency
759 pretrial substance abuse education and treatment intervention
760 program approved by the chief judge or alternative sanctions
761 coordinator of the circuit to the extent that funded programs
762 are available, for a period based on the program requirements
763 and the treatment services that are suitable for the offender ~~of~~
764 ~~not less than 1 year in duration~~, upon motion of either party or
765 the court's own motion, except:-

766 (a) If the state attorney believes that the facts and
767 circumstances of the case suggest the child's involvement in the
768 dealing and selling of controlled substances, the court shall
769 hold a preadmission hearing. If the state attorney establishes
770 by a preponderance of the evidence at such hearing that the
771 child was involved in the dealing and selling of controlled



HB 0669

2003

772 substances, the court shall deny the child's admission into a
773 delinquency pretrial intervention program.

774 (b) A child assessed with a substance abuse problem who is
775 charged for the first time with a nonviolent third degree felony
776 and a child assessed with a substance abuse problem who has
777 previously been adjudicated guilty of or delinquent for a
778 nonviolent third degree felony who is charged with a second or
779 subsequent nonviolent third degree felony may, with the approval
780 of the state attorney, be referred to the program outlined in
781 this subsection. Upon successful completion of the program, the
782 child is entitled to dismissal of the pending charge as provided
783 in paragraph (3)(b).

784 (2)(b) At the end of the delinquency pretrial intervention
785 period, the court shall consider the recommendation of the state
786 attorney and the program administrator as to disposition of the
787 pending charges. The court shall determine, by written finding,
788 whether the child has successfully completed the delinquency
789 pretrial intervention program.

790 (3)(a)(c)1. If the court finds that the child has not
791 successfully completed the delinquency pretrial intervention
792 program, the court may order the child to continue in an
793 education, treatment, or urine monitoring program if resources
794 and funding are available or order that the charges revert to
795 normal channels for prosecution.

796 (b)2. The court may dismiss the charges upon a finding
797 that the child has successfully completed the delinquency
798 pretrial intervention program.

799 (4)(d) Any entity, whether public or private, providing
800 pretrial substance abuse education, treatment intervention, and
801 a urine monitoring program under this section must contract with



HB 0669

2003

802 the county or appropriate governmental entity, and the terms of
803 the contract must include, but need not be limited to, the
804 requirements established for private entities under s.
805 948.15(3). It is the intent of the Legislature that public or
806 private entities providing substance abuse education and
807 treatment intervention programs involve the active participation
808 of parents, schools, churches, businesses, law enforcement
809 agencies, and the department or its contract providers.

810 ~~(2) The chief judge in each circuit may appoint an~~
811 ~~advisory committee for the delinquency pretrial intervention~~
812 ~~program composed of the chief judge or designee, who shall serve~~
813 ~~as chair; the state attorney, the public defender, and the~~
814 ~~program administrator, or their designees; and such other~~
815 ~~persons as the chair deems appropriate. The committee may also~~
816 ~~include persons representing any other agencies to which~~
817 ~~children released to the delinquency pretrial intervention~~
818 ~~program may be referred.~~

819 Section 11. This act shall take effect July 1, 2003.