



HB 0035B

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



HB 0035B

2003

31 the treatment-based drug court program; providing for
32 membership of the committee; revising language with
33 respect to an annual report; amending s. 910.035, F.S.;
34 revising language with respect to conditions for the
35 transfer of a case in the drug court treatment program to
36 a county other than that in which the charge arose;
37 amending s. 948.08, F.S.; revising eligibility
38 requirements for participation in pretrial intervention
39 programs; authorizing the court to refer certain
40 defendants who are assessed with a substance abuse problem
41 to a pretrial intervention program with the approval of
42 the state attorney; deleting provisions authorizing
43 advisory committees for the district pretrial intervention
44 programs; amending s. 985.306, F.S.; revising eligibility
45 requirements for participation in delinquency pretrial
46 intervention programs; authorizing the court to refer
47 certain juveniles who are assessed as having a substance
48 abuse problem to a substance abuse education and treatment
49 intervention program; deleting provisions authorizing
50 advisory committees for the district delinquency pretrial
51 intervention program; providing for construction of the
52 act in pari materia with laws enacted during the 2003
53 Regular Session or the 2003 Special Session A of the
54 Legislature; providing an effective date.

55

56 Be It Enacted by the Legislature of the State of Florida:

57

58 Section 1. Subsection (4) of section 39.001, Florida
59 Statutes, is amended to read:

60

39.001 Purposes and intent; personnel standards and



HB 0035B

2003

61 screening.--

62 (4) SUBSTANCE ABUSE SERVICES.--

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

77 (b) The substance abuse treatment and family safety
78 programs of the Department of Children and Family Services have
79 identified the following goals for the state:

80 1. To ensure the safety of children.

81 2. To prevent and remediate the consequences of substance
82 abuse on families involved in protective supervision or foster
83 care and reduce substance abuse, including alcohol abuse, for
84 families who are at risk of being involved in protective
85 supervision or foster care.

86 3. To expedite permanency for children and reunify
87 healthy, intact families, when appropriate.

88 4. To support families in recovery.

89 (c) The Legislature finds that children in the care of the
90 state's dependency system need appropriate health care services,



HB 0035B

2003

91 that the impact of substance abuse on health indicates the need
92 for health care services to include substance abuse services to
93 children and parents where appropriate, and that it is in the
94 state's best interest that such children be provided the
95 services they need to enable them to become and remain
96 independent of state care. In order to provide these services,
97 the state's dependency system must have the ability to identify
98 and provide appropriate intervention and treatment for children
99 with personal or family-related substance abuse problems.

100 (d) It is the intent of the Legislature to encourage the
101 court to support the drug court program model by assessing
102 parents and children to identify and address substance abuse
103 problems as the court deems appropriate at every stage of the
104 dependency process. Participation in treatment, including a
105 treatment-based drug court program, may be required by the court
106 following adjudication. This subsection does not prevent a
107 child's parents and, when appropriate, the legal custodian from
108 voluntarily entering treatment, including a treatment-based drug
109 court program, at the earliest stage of the process. Nothing in
110 this section precludes a court from ordering drug testing where
111 substance abuse is suspected to determine the safety of the
112 placement of a child with a caretaker.

113 (e) It is therefore the purpose of the Legislature to
114 provide authority for the state to contract with community
115 substance abuse treatment providers for the development and
116 operation of specialized support and overlay services for the
117 dependency system, which will be fully implemented and used
118 utilized as resources permit.

119 (f) It is the intent of the Legislature to encourage the
120 Department of Children and Family Services, in conjunction with



HB 0035B

2003

121 community agencies; treatment-based facilities; facilities
 122 dedicated to child welfare, child development, and mental health
 123 services; the Department of Health; other similar agencies;
 124 local governments; law enforcement agencies; and other
 125 interested public or private sources to support the drug court
 126 program model. Participation in the treatment-based drug court
 127 program does not divest any public or private agency of its
 128 responsibility for a child or adult, but enables these agencies
 129 to better meet their needs through shared responsibility and
 130 resources.

131 Section 2. Subsections (11) through (16) of section
 132 39.402, Florida Statutes, are renumbered as subsections (12)
 133 through (17), respectively, and a new subsection (11) is added
 134 to said section, to read:

135 39.402 Placement in a shelter.--

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

145 Section 3. Section 39.407, Florida Statutes, is amended to
 146 read:

147 39.407 Medical, psychiatric, and psychological examination
 148 and treatment of child; physical, ~~or~~ mental, or substance abuse
 149 examination of parent or person requesting custody of child.--

150 (1) When any child is removed from the home and maintained



HB 0035B

2003

151 in an out-of-home placement, the department is authorized to
152 have a medical screening performed on the child without
153 authorization from the court and without consent from a parent
154 or legal custodian. Such medical screening shall be performed by
155 a licensed health care professional and shall be to examine the
156 child for injury, illness, and communicable diseases and to
157 determine the need for immunization. The department shall by
158 rule establish the invasiveness of the medical procedures
159 authorized to be performed under this subsection. In no case
160 does this subsection authorize the department to consent to
161 medical treatment for such children.

162 (2) When the department has performed the medical
163 screening authorized by subsection (1), or when it is otherwise
164 determined by a licensed health care professional that a child
165 who is in an out-of-home placement, but who has not been
166 committed to the department, is in need of medical treatment,
167 including the need for immunization, consent for medical
168 treatment shall be obtained in the following manner:

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

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

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



HB 0035B

2003

181 (c) If a parent or legal custodian of the child is
182 available but refuses to consent to the necessary treatment,
183 including immunization, a court order shall be required unless
184 the situation meets the definition of an emergency in s. 743.064
185 or the treatment needed is related to suspected abuse,
186 abandonment, or neglect of the child by a parent, caregiver, or
187 legal custodian. In such case, the department shall have the
188 authority to consent to necessary medical treatment. This
189 authority is limited to the time reasonably necessary to obtain
190 court authorization.

191
192 In no case shall the department consent to sterilization,
193 abortion, or termination of life support.

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

196 (b) The judge may also order such child to be evaluated by
197 a psychiatrist or a psychologist or, if a developmental
198 disability is suspected or alleged, by the developmental
199 disability diagnostic and evaluation team of the department. If
200 it is necessary to place a child in a residential facility for
201 such evaluation, the criteria and procedure established in s.
202 394.463(2) or chapter 393 shall be used, whichever is
203 applicable.

204 (c) The judge may also order such child to be evaluated by
205 a district school board educational needs assessment team. The
206 educational needs assessment provided by the district school
207 board educational needs assessment team shall include, but not
208 be limited to, reports of intelligence and achievement tests,
209 screening for learning disabilities and other handicaps, and
210 screening for the need for alternative education as defined in



HB 0035B

2003

211 s. 1001.42.

212 (4) A judge may order a child in an out-of-home placement
213 to be treated by a licensed health care professional based on
214 evidence that the child should receive treatment. The judge may
215 also order such child to receive mental health or developmental
216 disabilities services from a psychiatrist, psychologist, or
217 other appropriate service provider. Except as provided in
218 subsection (5), if it is necessary to place the child in a
219 residential facility for such services, the procedures and
220 criteria established in s. 394.467 or chapter 393 shall be used,
221 whichever is applicable. A child may be provided developmental
222 disabilities or mental health services in emergency situations,
223 pursuant to the procedures and criteria contained in s.
224 394.463(1) or chapter 393, whichever is applicable.

225 (5) Children who are in the legal custody of the
226 department may be placed by the department, without prior
227 approval of the court, in a residential treatment center
228 licensed under s. 394.875 or a hospital licensed under chapter
229 395 for residential mental health treatment only pursuant to
230 this section or may be placed by the court in accordance with an
231 order of involuntary examination or involuntary placement
232 entered pursuant to s. 394.463 or s. 394.467. All children
233 placed in a residential treatment program under this subsection
234 must have a guardian ad litem appointed.

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

236 1. "Residential treatment" means placement for
237 observation, diagnosis, or treatment of an emotional disturbance
238 in a residential treatment center licensed under s. 394.875 or a
239 hospital licensed under chapter 395.

240 2. "Least restrictive alternative" means the treatment and



HB 0035B

2003

241 conditions of treatment that, separately and in combination, are
242 no more intrusive or restrictive of freedom than reasonably
243 necessary to achieve a substantial therapeutic benefit or to
244 protect the child or adolescent or others from physical injury.

245 3. "Suitable for residential treatment" or "suitability"
246 means a determination concerning a child or adolescent with an
247 emotional disturbance as defined in s. 394.492(5) or a serious
248 emotional disturbance as defined in s. 394.492(6) that each of
249 the following criteria is met:

250 a. The child requires residential treatment.

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

253 c. An appropriate, less restrictive alternative to
254 residential treatment is unavailable.

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

269 (c) Before a child is admitted under this subsection, the
270 child shall be assessed for suitability for residential



HB 0035B

2003

271 treatment by a qualified evaluator who has conducted a personal
272 examination and assessment of the child and has made written
273 findings that:

274 1. The child appears to have an emotional disturbance
275 serious enough to require residential treatment and is
276 reasonably likely to benefit from the treatment.

277 2. The child has been provided with a clinically
278 appropriate explanation of the nature and purpose of the
279 treatment.

280 3. All available modalities of treatment less restrictive
281 than residential treatment have been considered, and a less
282 restrictive alternative that would offer comparable benefits to
283 the child is unavailable.

284

285 A copy of the written findings of the evaluation and suitability
286 assessment must be provided to the department and to the
287 guardian ad litem, who shall have the opportunity to discuss the
288 findings with the evaluator.

289 (d) Immediately upon placing a child in a residential
290 treatment program under this section, the department must notify
291 the guardian ad litem and the court having jurisdiction over the
292 child and must provide the guardian ad litem and the court with
293 a copy of the assessment by the qualified evaluator.

294 (e) Within 10 days after the admission of a child to a
295 residential treatment program, the director of the residential
296 treatment program or the director's designee must ensure that an
297 individualized plan of treatment has been prepared by the
298 program and has been explained to the child, to the department,
299 and to the guardian ad litem, and submitted to the department.

300 The child must be involved in the preparation of the plan to the



HB 0035B

2003

301 maximum feasible extent consistent with his or her ability to
302 understand and participate, and the guardian ad litem and the
303 child's foster parents must be involved to the maximum extent
304 consistent with the child's treatment needs. The plan must
305 include a preliminary plan for residential treatment and
306 aftercare upon completion of residential treatment. The plan
307 must include specific behavioral and emotional goals against
308 which the success of the residential treatment may be measured.
309 A copy of the plan must be provided to the child, to the
310 guardian ad litem, and to the department.

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

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



HB 0035B

2003

331 2. The court must conduct a hearing to review the status
332 of the child's residential treatment plan no later than 3 months
333 after the child's admission to the residential treatment
334 program. An independent review of the child's progress toward
335 achieving the goals and objectives of the treatment plan must be
336 completed by a qualified evaluator and submitted to the court
337 before its 3-month review.

338 3. For any child in residential treatment at the time a
339 judicial review is held pursuant to s. 39.701, the child's
340 continued placement in residential treatment must be a subject
341 of the judicial review.

342 4. If at any time the court determines that the child is
343 not suitable for continued residential treatment, the court
344 shall order the department to place the child in the least
345 restrictive setting that is best suited to meet his or her
346 needs.

347 (h) After the initial 3-month review, the court must
348 conduct a review of the child's residential treatment plan every
349 90 days.

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



HB 0035B

2003

361 evaluators.

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

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

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

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

379 (10) Nothing in this section shall be construed to
380 authorize the permanent sterilization of the child unless such
381 sterilization is the result of or incidental to medically
382 necessary treatment to protect or preserve the life of the
383 child.

384 (11) For the purpose of obtaining an evaluation or
385 examination, or receiving treatment as authorized pursuant to
386 this section, no child alleged to be or found to be dependent
387 shall be placed in a detention home or other program used
388 primarily for the care and custody of children alleged or found
389 to have committed delinquent acts.

390 (12) The parents or legal custodian of a child in an out-



HB 0035B

2003

391 of-home placement remain financially responsible for the cost of
392 medical treatment provided to the child even if either one or
393 both of the parents or if the legal custodian did not consent to
394 the medical treatment. After a hearing, the court may order the
395 parents or legal custodian, if found able to do so, to reimburse
396 the department or other provider of medical services for
397 treatment provided.

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

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

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



HB 0035B

2003

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

423 39.507 Adjudicatory hearings; orders of adjudication.--

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

444 Section 5. Paragraph (b) of subsection (1) of section
445 39.521, Florida Statutes, is amended to read:

446 39.521 Disposition hearings; powers of disposition.--

447 (1) A disposition hearing shall be conducted by the court,
448 if the court finds that the facts alleged in the petition for
449 dependency were proven in the adjudicatory hearing, or if the
450 parents or legal custodians have consented to the finding of



HB 0035B

2003

451 dependency or admitted the allegations in the petition, have
 452 failed to appear for the arraignment hearing after proper
 453 notice, or have not been located despite a diligent search
 454 having been conducted.

455 (b) When any child is adjudicated by a court to be
 456 dependent, the court having jurisdiction of the child has the
 457 power by order to:

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

480 2. Require, if the court deems necessary, the parties to



HB 0035B

2003

481 participate in dependency mediation.

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

503 Section 6. Paragraph (d) of subsection (8) of section
504 39.701, Florida Statutes, is amended to read:

505 39.701 Judicial review.--

506 (8)

507 (d) The court may extend the time limitation of the case
508 plan, or may modify the terms of the plan, which, in addition to
509 other modifications, may include a requirement that the parent,
510 foster parent, or legal custodian participate in a treatment-



HB 0035B

2003

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

523 Section 7. Section 397.334, Florida Statutes, is amended
524 to read:

525 397.334 Treatment-based drug court programs.--

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



HB 0035B

2003

541 abusers, including a ~~multiagency~~ team approach to service
542 delivery and aftercare services.

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

564 (3) The treatment-based drug court programs shall include
565 therapeutic jurisprudence and restorative justice principles and
566 adhere to the following 10 key components, recognized by the
567 Drug Courts Program Office of the Office of Justice Programs of
568 the United States Department of Justice and adopted by the
569 Florida Supreme Court Treatment-Based Drug Court Steering
570 Committee:



HB 0035B

2003

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

573 (b) Using a nonadversarial approach, prosecution and
574 defense counsel promote public safety while protecting
575 participants' due process rights.

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

578 (d) Drug court programs provide access to a continuum of
579 alcohol, drug, and other related treatment and rehabilitation
580 services.

581 (e) Abstinence is monitored by frequent testing for
582 alcohol and other drugs.

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

585 (g) Ongoing judicial interaction with each drug court
586 program participant is essential.

587 (h) Monitoring and evaluation measure the achievement of
588 program goals and gauge program effectiveness.

589 (i) Continuing interdisciplinary education promotes
590 effective drug court program planning, implementation, and
591 operations.

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

595 (4) Treatment-based drug court programs may include
596 pretrial intervention programs as provided in ss. 948.08,
597 948.16, and 985.306, post adjudicatory programs, and the
598 monitoring of sentenced offenders through a treatment-based drug
599 court program. Supervision may also be provided for offenders
600 who transfer from jail or a prison-based treatment program into



HB 0035B

2003

601 the community.

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

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

623 (b) The association shall annually elect a chair whose
624 duty is to solicit recommendations from members on issues
625 relating to the expansion, operation, and institutionalization
626 of treatment-based drug court programs. The chair is
627 responsible for providing the association's recommendations
628 together with a report each year, on or before October 1, to the
629 appropriate Supreme Court committee or personnel of the Office
630 of the State Courts Administrator ~~Supreme Court Treatment-Based~~



HB 0035B

2003

631 ~~Drug Court Steering Committee, and shall submit a report each~~
632 ~~year, on or before October 1, to the steering committee.~~

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

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

645 910.035 Transfer from county for plea and sentence.--

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

651 (a) The authorized representative of the drug court
652 program of the county requesting to transfer the case shall
653 consult with the authorized representative of the drug court
654 program in the county to which transfer is desired.

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

660 (c) The transfer order shall include a copy of the



HB 0035B

2003

661 probable cause affidavit; any charging documents in the case;
 662 all reports, witness statements, test results, evidence lists,
 663 and other documents in the case; the defendant's mailing address
 664 and phone number; and the defendant's written consent to abide
 665 by the rules and procedures of the receiving county's drug court
 666 program.

667 (d) After the transfer takes place, the clerk shall set
 668 the matter for a hearing before the drug court program judge and
 669 the court shall ensure the defendant's entry into the drug court
 670 program.

671 (e) Upon successful completion of the drug court program,
 672 the jurisdiction to which the case has been transferred shall
 673 dispose of the case pursuant to s. 948.08(6). If the defendant
 674 does not complete the drug court program successfully, the
 675 jurisdiction to which the case has been transferred shall
 676 dispose of the case within the guidelines of the Criminal
 677 Punishment Code ~~case shall be prosecuted as determined by the~~
 678 ~~state attorneys of the sending and receiving counties.~~

679 Section 9. Subsections (6), (7), and (8) of section
 680 948.08, Florida Statutes, are amended to read:

681 948.08 Pretrial intervention program.--

682 (6)(a) Notwithstanding any provision of this section, a
 683 person who is charged with a felony of the second or third
 684 degree for purchase or possession of a controlled substance
 685 under chapter 893, prostitution, tampering with evidence,
 686 solicitation for purchase of a controlled substance, or
 687 obtaining a prescription by fraud; who has not been charged with
 688 a crime involving violence, including, but not limited to,
 689 murder, sexual battery, robbery, carjacking, home-invasion
 690 robbery, or any other crime involving violence; and who has not



HB 0035B

2003

691 previously been convicted of a felony ~~nor been admitted to a~~
692 ~~felony pretrial program referred to in this section~~ is eligible
693 for admission into a pretrial substance abuse education and
694 treatment intervention program approved by the chief judge of
695 the circuit, for a period of not less than 1 year in duration,
696 upon motion of either party or the court's own motion, except:

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

702 1.2. If the state attorney believes that the facts and
703 circumstances of the case suggest the defendant's involvement in
704 the dealing and selling of controlled substances, the court
705 shall hold a preadmission hearing. If the state attorney
706 establishes, by a preponderance of the evidence at such hearing,
707 that the defendant was involved in the dealing or selling of
708 controlled substances, the court shall deny the defendant's
709 admission into a pretrial intervention program.

710 2. A defendant assessed with a substance abuse problem who
711 is charged for the first time with a nonviolent third degree
712 felony and a defendant assessed with a substance abuse problem
713 who has previously been convicted of a nonviolent third degree
714 felony who is charged with a second or subsequent nonviolent
715 third degree felony may, with the approval of the state
716 attorney, be referred to the program outlined in this
717 subsection. Upon successful completion of the program, the
718 defendant is entitled to dismissal of the pending charge
719 involving a nonviolent third degree felony.

720 (b) At the end of the pretrial intervention period, the



HB 0035B

2003

721 court shall consider the recommendation of the administrator
722 pursuant to subsection (5) and the recommendation of the state
723 attorney as to disposition of the pending charges. The court
724 shall determine, by written finding, whether the defendant has
725 successfully completed the pretrial intervention program.

726 (c)1. If the court finds that the defendant has not
727 successfully completed the pretrial intervention program, the
728 court may order the person to continue in education and
729 treatment or order that the charges revert to normal channels
730 for prosecution.

731 2. The court shall dismiss the charges upon a finding that
732 the defendant has successfully completed the pretrial
733 intervention program.

734 (d) Any entity, whether public or private, providing a
735 pretrial substance abuse education and treatment intervention
736 program under this subsection must contract with the county or
737 appropriate governmental entity, and the terms of the contract
738 must include, but need not be limited to, the requirements
739 established for private entities under s. 948.15(3).

740 ~~(7) The chief judge in each circuit may appoint an~~
741 ~~advisory committee for the pretrial intervention program~~
742 ~~composed of the chief judge or his or her designee, who shall~~
743 ~~serve as chair; the state attorney, the public defender, and the~~
744 ~~program administrator, or their designees; and such other~~
745 ~~persons as the chair deems appropriate. The advisory committee~~
746 ~~may not designate any defendant eligible for a pretrial~~
747 ~~intervention program for any offense that is not listed under~~
748 ~~paragraph (6)(a) without the state attorney's recommendation and~~
749 ~~approval. The committee may also include persons representing~~
750 ~~any other agencies to which persons released to the pretrial~~



HB 0035B

2003

751 ~~intervention program may be referred.~~

752 ~~(7)(8)~~ The department may contract for the services and
 753 facilities necessary to operate pretrial intervention programs.

754 Section 10. Section 985.306, Florida Statutes, is amended
 755 to read:

756 985.306 Delinquency pretrial intervention program.--

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

773 (a) If the state attorney believes that the facts and
 774 circumstances of the case suggest the child's involvement in the
 775 dealing and selling of controlled substances, the court shall
 776 hold a preadmission hearing. If the state attorney establishes
 777 by a preponderance of the evidence at such hearing that the
 778 child was involved in the dealing and selling of controlled
 779 substances, the court shall deny the child's admission into a
 780 delinquency pretrial intervention program.



HB 0035B

2003

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

791 (2)(b) At the end of the delinquency pretrial intervention
792 period, the court shall consider the recommendation of the state
793 attorney and the program administrator as to disposition of the
794 pending charges. The court shall determine, by written finding,
795 whether the child has successfully completed the delinquency
796 pretrial intervention program.

797 (3)(a)(e)1. If the court finds that the child has not
798 successfully completed the delinquency pretrial intervention
799 program, the court may order the child to continue in an
800 education, treatment, or urine monitoring program if resources
801 and funding are available or order that the charges revert to
802 normal channels for prosecution.

803 (b)2. The court may dismiss the charges upon a finding
804 that the child has successfully completed the delinquency
805 pretrial intervention program.

806 (4)(d) Any entity, whether public or private, providing
807 pretrial substance abuse education, treatment intervention, and
808 a urine monitoring program under this section must contract with
809 the county or appropriate governmental entity, and the terms of
810 the contract must include, but need not be limited to, the



HB 0035B

2003

811 requirements established for private entities under s.
812 948.15(3). It is the intent of the Legislature that public or
813 private entities providing substance abuse education and
814 treatment intervention programs involve the active participation
815 of parents, schools, churches, businesses, law enforcement
816 agencies, and the department or its contract providers.

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

826 Section 11. If any law amended by this act was also
827 amended by a law enacted at the 2003 Regular Session of the
828 Legislature or at the 2003 Special Session A of the Legislature,
829 such laws shall be construed as if they had been enacted at the
830 same session of the Legislature, and full effect shall be given
831 to each if possible.

832 Section 12. This act shall take effect July 1, 2003 , or
833 upon becoming a law, whichever occurs later.