

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 281 Substance abuse treatment and intervention
SPONSOR(S): Adams
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 316

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Juvenile Justice (Sub)</u>	_____	<u>Whittier</u>	<u>De La Paz</u>
2) <u>Public Safety & Crime Prevention</u>	_____	_____	_____
3) <u>State Administration</u>	_____	_____	_____
4) <u>Judicial Appropriations (Sub)</u>	_____	_____	_____
5) <u>Appropriations</u>	_____	_____	_____

SUMMARY ANALYSIS

HB 281 expresses legislative intent regarding combating substance abuse in families and encourages the courts to support the drug court program model by assessing parents and children to identify and address substance abuse problems every stage of the dependency process. It encourages the Department of Children and Family Services to support the drug court program model and to work in conjunction with community agencies; treatment-based facilities; facilities dedicated to child welfare, child development, and mental health services; the Department of Health; other similar agencies; local governments; law enforcement agencies; and other interested public or private sources in supporting the drug court model.

The bill authorizes the courts, for shelter, petition for dependency, adjudicatory, and disposition hearings, to order specified persons to submit to substance abuse assessment or evaluation upon showing of good cause and for the assessments or evaluations to be administered by a qualified professional, as defined in s. 397.311, F.S. The court is also authorized to require a person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation and compliance with a treatment-based drug court program. In these instances, the court shall oversee the progress and compliance with treatment by the person and shall impose appropriate available sanctions for noncompliance upon the child's parent, legal custodian, caregiver, or other person requesting custody of the child.

The bill provides that, contingent upon an annual appropriation, each judicial circuit is to establish at least one coordinator position for the treatment-based drug court program within the state courts system and authorizes the chief judge of each judicial circuit to appoint an advisory committee for the treatment-based drug court program. Further, the bill authorizes the chief judge of each judicial circuit to appoint an advisory committee for the treatment-based drug court program.

The bill amends Chapters 948 and 985, F.S., to broaden criteria for eligibility to be admitted to adult and delinquent (respectively) pretrial intervention programs. Specifically, the bill expands adult drug court to any person charged with a third degree non-violent felony, regardless of whether the program had been previously attempted. The bill would also permit a person charged with a second or subsequent third degree non-violent felony to be eligible if the state attorney approves.

The bill expands juvenile drug court to include all misdemeanors, as well as any violations of Chapter 893, F.S. In addition, juveniles charged with their first non-violent third degree felony and assessed with a substance abuse problem and with a non-violent record would be eligible as well. Youths charged with a second or subsequent non-violent third degree felony with a similar non-violent record would be eligible for the program with state attorney consent and the bill eliminates the ineligibility of a juvenile who had previously been admitted to the program.

The bill would virtually eliminate the state attorneys' discretion over the first-time juvenile offender for anything less than a second degree felony. These juveniles would automatically be eligible to enter into the program, even if previously admitted. Finally, since there is no mechanism to enforce restitution in a drug court program, as opposed to a condition of a plea or disposition after an adjudicatory hearing, victims of offenses such as burglary, grand theft, or grand theft of a motor vehicle may not receive restitution.

Fiscal impact is indeterminate at this time. With the impending implementation of the revisions to Article V, Florida Constitution, the state will be responsible for the costs of the entire program.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

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DATE February 3, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

Reduce Government – No. The bill authorizes the court to create an advisory committee for the treatment-based drug court program. The bill authorizes the courts to offer participation in a treatment-based drug court program to offenders that meet certain criteria. The court must then review compliance with the program

Increase personal responsibility – No. Since there is no mechanism to enforce restitution in a drug court program, as opposed to a condition of a plea or disposition after an adjudicatory hearing, someone charged with a crime such as burglary, grand theft, or grand theft of a motor vehicle, would not have to pay restitution to a victim.

B. EFFECT OF PROPOSED CHANGES:

Currently, children who are removed from their homes as a result of allegations of child abuse, abandonment, neglect, and exploitation are dealt with in the court system without a requirement for evaluation or assessment of substance abuse-related issues in the home environment.

The Florida Drug Court System

According to the Florida Supreme Court, the original drug court concept was developed in Dade County as a response to a federal mandate to reduce the inmate population or lose federal funding.¹ The Supreme Court determined that a large majority of the offenders were being incarcerated due to drug-related crimes and were “revolving back through the criminal justice system because of underlying problems of drug addiction.” It was their policy view that the delivery of treatment services needed to be coupled with the criminal justice system, strong judicial leadership, and partnerships to bring treatment services and the criminal justice system together.²

As of January 2004, there are 85 operational and eight planned drug courts in Florida. They are broken down as follows:

- ? Adult drug courts - 42 operational and two planned,
- ? Juvenile drug courts - 25 operational and three planned,
- ? Dependency drug courts - 16 operational and three planned, and
- ? Reentry³ drug courts: - Two operational.⁴

¹ *The Florida Drug Court System*, revised January 2004, p. 1.

² *Ibid*, p. 2.

³ This refers to persons reentering society after release from a correctional program.

⁴ *The Florida Drug Court System*, revised January 2004, p. 2.

Drug courts are operational in 19 of 20 of Florida's judicial circuits.⁵ Nationally, there are 1,183 drug courts, either operational or in planning stages, and are operational in all fifty states.⁶

In 2002, Florida drug courts had over 10,200 admissions and close to 3,000 graduates with a graduation rate of approximately 70%, compared to a national average of 47% (n=8). Studies are showing that drug court graduates are significantly reducing recidivism rates.⁷

Effects of HB 281

Section 1.

Section 1. of HB 281 amends s. 39.001(4), F.S., the Substance Abuse Services subsection of the Proceedings Relating to Children chapter. It expresses legislative recognition that

Substance abuse is the primary cause of the dramatic rise in cases of child abuse and neglect, immeasurably increases the complexity of cases in the dependency system, severely compromises or destroys the ability of parents to provide a safe and nurturing home for children, and severely confounds the dependency system's ability to protect children.

The bill identifies four goals of the Department of Children and Family Services' substance abuse treatment and family safety programs for the State of Florida:

- ? To ensure the safety of children.
- ? To prevent and remediate the consequences of substance abuse on families involved in protective supervision or foster care and reduce substance abuse, including alcohol abuse, for families who are at risk of being involved in protective supervision or foster care.
- ? To expedite permanency for children and reunify healthy, intact families, when appropriate.
- ? To support families in recovery.

The bill encourages the court to support the drug court program model by assessing parents and children to identify and address substance abuse problems at every stage of the dependency process.⁸ Further, participation in treatment, including a treatment-based drug court program, may be required by the court following adjudication. The treatment-based drug court program model should integrate judicial supervision, treatment, accountability, sanctions, and community support.

The bill encourages the Department of Children and Family Services to support the drug court program model and to work in conjunction with community agencies; treatment-based facilities; facilities dedicated to child welfare, child development, and mental health services; the Department of Health; other similar agencies; local governments; law enforcement agencies; and other interested public or private sources in supporting this model.

Section 2.

Section 2. of the bill amends s. 39.402, F.S., regarding hearings for whether a child is to be placed in a shelter. Subsection (11) is added to authorize the court, if the mental or physical condition of the child

⁵ The 3rd judicial circuit has a drug court in the planning stage.

⁶ *The Florida Drug Court System*, revised January 2004, p. 2.

⁷ *Ibid.*, p. 3.

⁸ "Dependency" in this context refers to an adjudicatory hearing on whether a child is to become dependent on state services, and is not referring to dependency on a substance.

or child's parent, caregiver, legal custodian, or other person requesting custody of the child is in controversy, order the person to submit to a substance abuse assessment or evaluation upon showing of good cause and for the assessments or evaluations to be administered by a qualified professional, as defined in s. 397.311, F.S.⁹

Further, the order must be made "pursuant to the notice and procedures set forth in the Florida Rules of Juvenile Procedure." This language is superfluous and occurs several times throughout the bill (see sections 3., 4., and 5.).

Section 3.

Section 3. of the bill amends s. 39.407, F.S., regarding the mental or physical condition of a child that has been removed from the home and maintained in an out-of-home placement or the parent or person requesting custody of the child. Subsection (15) is added to provide that at any time after a shelter petition or petition for dependency is filed, if the mental or physical condition of the child or child's parent, caregiver, legal custodian, or other person requesting custody of the child is in controversy, the court may order the person to submit to a substance abuse assessment or evaluation upon showing of good cause. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311, F.S. (See footnote #9.) Further, the order must be made pursuant to the notice and procedures requirements in the Florida Rules of Juvenile Procedure.

Section 4.

Section 4. of the bill amends s. 39.507. F.S., having to do with adjudicatory hearings for dependency. Subsection (9) is added to provide that if the mental or physical condition of the child or child's parent, caregiver, legal custodian, or other person requesting custody of the child is in controversy, the court may order the person to submit to a substance abuse assessment or evaluation upon showing of good cause. The assessment or evaluation must be administered by a qualified professional (see footnote #9.), as defined in s. 397.311, F.S., and the order must be made pursuant to the notice and procedures requirements in the Florida Rules of Juvenile Procedure.

Language is added to authorize the court to require a person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation and compliance with a treatment-based drug court program. In this instance, the court shall oversee the progress and compliance with treatment by the person and shall impose appropriate available sanctions for noncompliance upon the child's parent, legal custodian, caregiver, or other person requesting custody of the child.

Section 5.

Section 5. of the bill amends s. 39.521(1), F.S., having to do with disposition hearings. Subparagraph 1. of paragraph (b) is rewritten to authorize the court to require, when a child is adjudicated by a court to be dependent, if the mental or physical condition of the child or child's parent, caregiver, legal custodian, or other person requesting custody of the child is in controversy, the person to submit to a substance abuse assessment or evaluation upon showing of good cause. The assessment or evaluation must be administered by a qualified professional (see footnote #9.), as defined in s. 397.311,

⁹ Section 397.311(24), F.S., - "Qualified professional" means a physician licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree. A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

F.S., and the order must be made pursuant to the notice and procedures requirements in the Florida Rules of Juvenile Procedure.

Language is added to authorize the court to require the person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation and compliance with a treatment-based drug court program. In this instance, the court shall oversee the progress and compliance with treatment by the person and shall impose appropriate available sanctions for noncompliance upon the child's parent, legal custodian, caregiver, or other person requesting custody of the child.

Section 6.

Section 6. of the bill amends s. 39.701(8), F.S., having to do with judicial review. Paragraph (d) is amended to allow the court, if extending the time limitation of the case plan or modifying the terms of the plan, to include a requirement that the parent, foster parent or legal custodian of the child being reviewed participate in a treatment-based drug court program.

Section 7.

Section 7. of the bill amends s. 397.334, F.S., having to do with treatment-based drug court programs. Subsection (4) is added to provide that, contingent upon an annual appropriation, each judicial circuit shall establish at least one coordinator position for the treatment-based drug court program within the state courts system to coordinate the responsibilities of the participating agencies and service providers, and including providing case management, monitoring compliance of the participants in the program with court requirements and providing program evaluation and accountability.

Subsection (7) is added to authorize the chief judge of each judicial circuit to appoint an advisory committee for the treatment-based drug court program to be comprised of the chief judge, or his or her designee, who is to serve as chair; the judge of the treatment-based drug court program, if not otherwise designated by the chief judge as his or her designee; the state attorney or his or her designee; the public defender or his or her designee; the treatment-based drug court program coordinators; community representatives; treatment representatives; and any other persons the chair finds are appropriate.

Subsection (3) is amended to provide that, in addition to including pretrial intervention programs, treatment-based drug court programs may include post adjudicatory programs, and the monitoring of sentenced offenders through a treatment based drug court program. Supervision may also be provided to offenders who transfer from jail or a prison-based treatment program into the community.

Section 8.

Section 8. of the bill amends s. 910.035(5), F.S., having to do with transfers from county for pleas and sentencing. Current law provides that any person eligible for participation in a drug court treatment program may be eligible to have the case transferred to a county other than that in which the charge arose if the drug court program agrees and if specific conditions are met. New language specifies that if approval for transfer is received from all parties, the trial court shall accept a plea of nolo contendere. The bill clarifies that upon successful completion of the drug court program, the jurisdiction to which the case has been transferred shall dispose of the case. If the defendant does not complete the drug court program successfully, the jurisdiction to which the case has been transferred is to dispose of the case within the guidelines of the Criminal Punishment Code.

Section 9.

Section 9. of the bill amends s. 948.08(6), F.S., having to do with pretrial intervention programs. Paragraph (b) is added to provide that, notwithstanding any provision in the section, a person who is

charged with a nonviolent third degree felony and is assessed with a substance abuse problem who has not been charged with a crime involving violence, including but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence and who has not previously been convicted of a felony is eligible for admission into a pretrial substance abuse education and treatment intervention program. **See Drafting Issues or Other Comments section of the bill.**

Paragraph (c) is added to provide that, notwithstanding any provision in the section, a defendant charged with a second or subsequent nonviolent third degree felony who has not been charged with a crime involving violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence, upon approval of the state attorney, is eligible for admission into the pretrial substance abuse education and treatment intervention program. **See Drafting Issues or Other Comments section of the bill.**

Currently, a person who has previously been offered or adjudicated to a pre-trial program is not eligible for a pre-trial referral again. Language is deleted that prevents someone who has already been admitted to a felony pretrial program from being eligible for admission into a pretrial substance abuse program. Language is also deleted that allows the court or the state attorney to deny a defendant's admission to a pretrial substance abuse program if the defendant was previously offered admission to that program and rejected it. **See Drafting Issues or Other Comments section of the bill.**

Language authorizing an advisory committee is deleted due to the creation of a larger advisory committee in Section 7. of the bill; however, significant language is not reinserted in Section 7, which includes that the "advisory committee may not designate any defendant eligible for a pretrial intervention program for any offense that is not listed...without the state attorney's recommendation and approval. **See Drafting Issues or Other Comments section of the bill.**

Section 10.

Section 10. of the bill amends s. 985.306, F.S., having to do with juvenile delinquency pretrial intervention programs. Subsection (1) is amended by the deletion of language regarding eligibility for admission to a delinquency pretrial intervention program for a child who is charged under Chapter 893, F.S., with a felony of the second or third degree for purchase or possession of a controlled substance and who has not previously been adjudicated for a felony nor has been admitted to a delinquency pretrial intervention program, expanding it to a child who is charged simply with a misdemeanor; a felony of the second or third degree for purchase or possession of a controlled substance, under chapter 893; tampering with evidence, solicitation for purchase of a controlled substance; or obtaining a prescription by fraud. Further language specifying that the program be at least for year is deleted and replaced with a period based on program requirements and services that are suitable for the offender. **See Drafting Issues or Other Comments section of the bill.**

Current law provides that only juveniles committing second or third degree violations of Chapter 893, F.S. (Illegal drug laws), who have not previously been adjudicated for a felony nor been admitted to a delinquency pretrial intervention program before, are eligible for admission into a delinquency pretrial substance abuse education and treatment intervention program. **See Drafting Issues or Other Comments section of the bill.**

The bill would allow a juvenile charged with their first third degree felony and assessed with a substance abuse problem and with a non-violent record to be eligible for admission into a pretrial substance abuse education and treatment intervention program. Youths charged with a second or subsequent non-violent third degree felony with a similar non-violent record would also be eligible for the program with the state attorney's consent. **See Drafting Issues or Other Comments section of the bill.**

Language authorizing an advisory committee is deleted due to the creation of a larger advisory committee in Section 7. of the bill.

Section 11.

The bill provides an effective date of July 1, 2004.

C. SECTION DIRECTORY:

See Effect of Proposed Changes section.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Treatment program providers and private insurance providers may experience an increase in participants who receive the services, if additional persons are referred for treatment. It is indeterminate how many new assessments or evaluations and resulting referrals will be ordered by the courts.

D. FISCAL COMMENTS:

Department of Children and Family Services

The Department of Children and Family Services (DCF) reports that “[f]or those individuals who are eligible for payment of the assessment by the department, it is estimated the impact of this bill will be absorbed in to current substance abuse system of care provided for an estimated 8,602 adults and 2,172 children involved in the drug court system.”

DCF reports that this assessment is based on an assurance from the Office of State Courts Administrator that there will not be a significant increase in the number and frequency of substance abuse assessments, that the courts are already ordering these assessments, and the new permissive language is just to “strengthen” what is already in place.

The language strengthening judicial oversight may result in an increase in the number and frequency of substance abuse assessments. The DCF fiscal estimate does not reflect this contingency.

Department of Juvenile Justice

According to the Department of Juvenile Justice, approximately 65,316 youths could be diverted to the drug court program. "Available DCF data indicates that out patient substance abuse treatment is funded by DCF at \$91 per hour and residential substance abuse treatment if funded from \$108 per day to \$241 per day. Thus the cost of providing substance abuse treatment to eligible delinquent youths could be considerable."

Office of State Courts Administrator

The Office of State Courts Administrator reports that all judicial circuits already have a drug court coordinator, so there will not be a fiscal impact related the bill's provision that each judicial circuit, contingent upon appropriation, establish the position of drug court coordinator.

The Office of State Courts Administrator also notes that,

The drug court programs would determine, based upon their existing resources, whether they can expand to include the additional eligible offenders. However it is not anticipated that this will have a fiscal impact since the language in the bill is permissive and participation in a drug court program is not mandated where no funds exist.

However, with the impending implementation of the revisions to Article V, Florida Constitution, the state would be obligated to pay for all circuits that choose to participate.

Department of Corrections

The change in the criteria for eligibility in the pretrial intervention program, which would allow persons with one or more prior nonviolent third degree felony convictions to be eligible for pretrial intervention programs will have a significant impact on the pretrial intervention officers. According to the Department of Corrections (department), the average case load for these officers, as of December 31, 2003, was 124:1. "The inclusion of previously convicted felons in the pretrial intervention program could overtax existing resources as substance abuse offenders require a higher level of supervision than an average pretrial intervention offender."

Further, the bill provides that offenders who do not successfully complete their pretrial intervention programs are to be subject to the Criminal Punishment Code, "and in all likelihood placed on probation, where they will receive supervision and treatment services, thereby duplicating the effort and requiring the same resources to be re-applied to the offender. The current system of placing these substance abuse offenders on Drug Offender Probation works well and also carries a significant penalty for failure to successfully complete the supervision term."

According to the department,

The current level of funding appropriated for community-based substance abuse treatment do not fully meet the demand for residential and outpatient treatment services for the active offender population. The current bill provides for the expansion of the pool of individuals who will be subject to a substance abuse assessment, prior to acceptance into a pre-trial intervention program, and who indicate drug involvement. The individual does not have to be charged with a drug offense. As such, the cost for assessments for these individuals will not be paid for out of the department's appropriation for substance abuse treatment, as they will not be under department supervision at this phase of the

process. This proposed expansion of the pool of drug-involved individuals will require additional funding to meet the assessment needs of this previously unidentified group.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Staff Attorney Comments

HB 281 significantly broadens the scope of Florida's drug court programs, even beyond the incorporation of cases arising from dependency. Because these programs are pretrial intervention for criminal offenses which are outside of the normal judicial process and are completely controlled by judges, this bill would have the effect of reducing the discretion of prosecutors for most criminal offenses.

Adult Drug Court

Current law provides that only those with second or third degree felony violations of Chapter 893, F.S. (drug offenses), are eligible for drug court. Also, an offender is ineligible for the program if they have "successfully" completed the program previously. The bill would expand adult drug court to any person charged with a third degree non-violent felony, regardless of whether the program had been previously attempted. The bill would also permit a person charged with a second or subsequent third degree non-violent felony to be eligible if the state attorney approves. This could have a significant impact on the ability of prosecutors, should the offender commit new offenses, to have the judge consider the defendant's past record, because the charges are dismissed for any offenses in which the offender successfully completed a drug court program. In this instance, the bill contains no provision which would require the defendant to pay restitution to the victim for his crime. This is reinforced by the bill's reference to "restorative justice." Restorative justice is undefined in the bill and is a concept which places an emphasis on forgiveness by the victim and the minimal actions necessary by the offender to reconcile himself to his community, as opposed to punishment. It can be argued that taken with the lack of a reference in the bill to restitution, that one overall effect of the bill would be to reduce the burden on behalf of the defendant to make the victim whole for his criminal actions.

For example, under the bill, a defendant could conceivably commit five non-related but consecutive offenses ranging from burglary of an unoccupied structure, grand theft, and grand theft of a motor vehicle, and receive drug court for each of them, thereby receiving a dismissal of all of the charges for successful completion of a drug treatment program. For a subsequent and more serious offense, a prosecutor would have to ignore all of the previous charges for sentencing or bond hearings and the defendant, though previously arrested for multiple felonies, could be sentenced or have bail set as a first-time offender. This will have the effect of reducing possible punishments of individuals with

records involving such offenses as burglary, grand theft, and grand theft of a motor vehicle if they commit new crimes after dismissal of the charges in drug court.

Under current law a judge may create a special advisory committee composed of the state attorney, public defender and others charged with referring cases to drug court. The statute specifically states that certain defendants of offenses not indicated in statute may not be referred without the consent of the state attorneys.

The bill deletes the language regarding the discretion of the state attorneys, so under the bill, the committee could refer any case to drug court over the state attorney's objection, even if the offense is not specifically provided for as eligible in statute. Also, since there is no mechanism to enforce restitution in a drug court program, as opposed to a condition of a plea or disposition after an adjudicatory hearing, victims of offenses such as burglary, grand theft, or grand theft of a motor vehicle may not receive restitution.

Juvenile Drug Court

Current law provides that only juveniles committing second or third degree violations of Chapter 893, F.S. (Illegal drug laws), who have not previously been adjudicated for a felony nor been admitted to a delinquency pretrial intervention program before, are eligible for admission into a delinquency pretrial substance abuse education and treatment intervention program. The programs are required to be at least a year in duration.

The bill would expand juvenile drug court to include all misdemeanors, as well as any violations of Chapter 893, F.S. In addition, juveniles charged with their first third degree felony and assessed with a substance abuse problem and with a non-violent record would be eligible as well. Youths charged with a second or subsequent non-violent third degree felony with a similar non-violent record would be eligible for the program with state attorney consent. Moreover, the bill would eliminate the ineligibility of juvenile who had previously been admitted to the program, meaning that juveniles could be admitted to drug court multiple times after "successfully" completing the program. Finally the bill eliminates the requirement that the program be for at least a year in duration. This means that juveniles could "complete" a drug treatment program lasting only a few weeks and receive a dismissal of all pending charges.

The bill would virtually eliminate the state attorneys' discretion over the first-time juvenile offender for anything less than a second degree felony. These juveniles would automatically be eligible to enter into the program, even if previously admitted. This will also reduce the ability of a prosecutor to refer to a juvenile's past criminal history for future court proceedings such as disposition or detention since each completion of the program constitutes a dismissal of the charges and may not be referred to in future disposition proceedings. Finally, since there is no mechanism to enforce restitution in a drug court program, as opposed to a condition of a plea or disposition after an adjudicatory hearing, victims of offenses such as burglary, grand theft, or grand theft of a motor vehicle may not receive restitution.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.