

By Senator Lynn

7-24A-04

See HB

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

1 individuals; including postadjudicatory  
2 programs as part of treatment-based drug court  
3 programs; requiring each judicial circuit to  
4 establish a position for a coordinator of the  
5 treatment-based drug court program; requiring  
6 the chief judge of each judicial circuit to  
7 appoint an advisory committee for the  
8 treatment-based drug court program; providing  
9 for membership of the committee; revising  
10 provisions with respect to an annual report;  
11 amending s. 910.035, F.S.; revising provisions  
12 with respect to conditions for the transfer of  
13 a case in the drug court treatment program to a  
14 county other than that in which the charge  
15 arose; amending s. 948.08, F.S.; revising  
16 eligibility requirements for participation in  
17 pretrial intervention programs; authorizing the  
18 court to refer certain defendants who are  
19 assessed with a substance abuse problem to a  
20 pretrial intervention program with the approval  
21 of the state attorney; deleting provisions  
22 authorizing advisory committees for the  
23 district pretrial intervention programs;  
24 amending s. 985.306, F.S.; revising eligibility  
25 requirements for participation in delinquency  
26 pretrial intervention programs; authorizing the  
27 court to refer certain juveniles who are  
28 assessed as having a substance abuse problem to  
29 a substance abuse education and treatment  
30 intervention program; deleting provisions  
31 authorizing advisory committees for the

1 district delinquency pretrial intervention  
2 program; providing an effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Subsection (4) of section 39.001, Florida  
7 Statutes, is amended to read:

8 39.001 Purposes and intent; personnel standards and  
9 screening.--

10 (4) SUBSTANCE ABUSE SERVICES.--

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

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

29 1. To ensure the safety of children.

30 2. To prevent and remediate the consequences of  
31 substance abuse on families involved in protective supervision

1 or foster care and reduce substance abuse, including alcohol  
2 abuse, for families who are at risk of being involved in  
3 protective supervision or foster care.

4 3. To expedite permanency for children and reunify  
5 healthy, intact families, when appropriate.

6 4. To support families in recovery.

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

19 (d) It is the intent of the Legislature to encourage  
20 the court to support the drug court program model by assessing  
21 parents and children to identify and address substance abuse  
22 problems as the court deems appropriate at every stage of the  
23 dependency process. Participation in treatment, including a  
24 treatment-based drug court program, may be required by the  
25 court following adjudication. This subsection does not prevent  
26 a child's parents and, when appropriate, the legal custodian  
27 from voluntarily entering treatment, including a  
28 treatment-based drug court program, at the earliest stage of  
29 the process. Nothing in this section precludes a court from  
30 ordering drug testing where substance abuse is suspected to  
31

1 determine the safety of the placement of a child with a  
2 caretaker.

3 (e) It is therefore the purpose of the Legislature to  
4 provide authority for the state to contract with community  
5 substance abuse treatment providers for the development and  
6 operation of specialized support and overlay services for the  
7 dependency system, which will be fully implemented and ~~used~~  
8 utilized as resources permit.

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

21 Section 2. Subsections (11) through (16) of section  
22 39.402, Florida Statutes, are renumbered as subsections (12)  
23 through (17), respectively, and a new subsection (11) is added  
24 to that section to read:

25 39.402 Placement in a shelter.--

26 (11) At the shelter hearing, if the mental or physical  
27 condition of a child or the child's parent, caregiver, legal  
28 custodian, or other person requesting custody of the child is  
29 in controversy, the court may order the person to submit to a  
30 substance abuse assessment or evaluation. The assessment or  
31 evaluation must be administered by a qualified professional,

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

4 Section 3. Section 39.407, Florida Statutes, is  
5 amended to read:

6 39.407 Medical, psychiatric, and psychological  
7 examination and treatment of child; physical, or mental, or  
8 substance abuse examination of parent or person requesting  
9 custody of child.--

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

22 (2) When the department has performed the medical  
23 screening authorized by subsection (1), or when it is  
24 otherwise determined by a licensed health care professional  
25 that a child who is in an out-of-home placement, but who has  
26 not been committed to the department, is in need of medical  
27 treatment, including the need for immunization, consent for  
28 medical treatment shall be obtained in the following manner:

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

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

1 (b) If a parent or legal custodian of the child is  
2 unavailable and his or her whereabouts cannot be reasonably  
3 ascertained, and it is after normal working hours so that a  
4 court order cannot reasonably be obtained, an authorized agent  
5 of the department shall have the authority to consent to  
6 necessary medical treatment, including immunization, for the  
7 child. The authority of the department to consent to medical  
8 treatment in this circumstance shall be limited to the time  
9 reasonably necessary to obtain court authorization.

10 (c) If a parent or legal custodian of the child is  
11 available but refuses to consent to the necessary treatment,  
12 including immunization, a court order shall be required unless  
13 the situation meets the definition of an emergency in s.  
14 743.064 or the treatment needed is related to suspected abuse,  
15 abandonment, or neglect of the child by a parent, caregiver,  
16 or legal custodian. In such case, the department shall have  
17 the authority to consent to necessary medical treatment. This  
18 authority is limited to the time reasonably necessary to  
19 obtain court authorization.

20  
21 In no case shall the department consent to sterilization,  
22 abortion, or termination of life support.

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

26 (b) The judge may also order such child to be  
27 evaluated by a psychiatrist or a psychologist or, if a  
28 developmental disability is suspected or alleged, by the  
29 developmental disability diagnostic and evaluation team of the  
30 department. If it is necessary to place a child in a  
31 residential facility for such evaluation, the criteria and

1 procedure established in s. 394.463(2) or chapter 393 shall be  
2 used, whichever is applicable.

3 (c) The judge may also order such child to be  
4 evaluated by a district school board educational needs  
5 assessment team. The educational needs assessment provided by  
6 the district school board educational needs assessment team  
7 shall include, but not be limited to, reports of intelligence  
8 and achievement tests, screening for learning disabilities and  
9 other handicaps, and screening for the need for alternative  
10 education as defined in s. 1001.42.

11 (4) A judge may order a child in an out-of-home  
12 placement to be treated by a licensed health care professional  
13 based on evidence that the child should receive treatment. The  
14 judge may also order such child to receive mental health or  
15 developmental disabilities services from a psychiatrist,  
16 psychologist, or other appropriate service provider. Except as  
17 provided in subsection (5), if it is necessary to place the  
18 child in a residential facility for such services, the  
19 procedures and criteria established in s. 394.467 or chapter  
20 393 shall be used, whichever is applicable. A child may be  
21 provided developmental disabilities or mental health services  
22 in emergency situations, pursuant to the procedures and  
23 criteria contained in s. 394.463(1) or chapter 393, whichever  
24 is applicable.

25 (5) Children who are in the legal custody of the  
26 department may be placed by the department, without prior  
27 approval of the court, in a residential treatment center  
28 licensed under s. 394.875 or a hospital licensed under chapter  
29 395 for residential mental health treatment only pursuant to  
30 this section or may be placed by the court in accordance with  
31 an order of involuntary examination or involuntary placement



1 entered pursuant to s. 394.463 or s. 394.467. All children  
2 placed in a residential treatment program under this  
3 subsection must have a guardian ad litem appointed.

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

5 1. "Residential treatment" means placement for  
6 observation, diagnosis, or treatment of an emotional  
7 disturbance in a residential treatment center licensed under  
8 s. 394.875 or a hospital licensed under chapter 395.

9 2. "Least restrictive alternative" means the treatment  
10 and conditions of treatment that, separately and in  
11 combination, are no more intrusive or restrictive of freedom  
12 than reasonably necessary to achieve a substantial therapeutic  
13 benefit or to protect the child or adolescent or others from  
14 physical injury.

15 3. "Suitable for residential treatment" or  
16 "suitability" means a determination concerning a child or  
17 adolescent with an emotional disturbance as defined in s.  
18 394.492(5) or a serious emotional disturbance as defined in s.  
19 394.492(6) that each of the following criteria is met:

20 a. The child requires residential treatment.

21 b. The child is in need of a residential treatment  
22 program and is expected to benefit from mental health  
23 treatment.

24 c. An appropriate, less restrictive alternative to  
25 residential treatment is unavailable.

26 (b) Whenever the department believes that a child in  
27 its legal custody is emotionally disturbed and may need  
28 residential treatment, an examination and suitability  
29 assessment must be conducted by a qualified evaluator who is  
30 appointed by the Agency for Health Care Administration. This  
31 suitability assessment must be completed before the placement

1 of the child in a residential treatment center for emotionally  
2 disturbed children and adolescents or a hospital. The  
3 qualified evaluator must be a psychiatrist or a psychologist  
4 licensed in Florida who has at least 3 years of experience in  
5 the diagnosis and treatment of serious emotional disturbances  
6 in children and adolescents and who has no actual or perceived  
7 conflict of interest with any inpatient facility or  
8 residential treatment center or program.

9 (c) Before a child is admitted under this subsection,  
10 the child shall be assessed for suitability for residential  
11 treatment by a qualified evaluator who has conducted a  
12 personal examination and assessment of the child and has made  
13 written findings that:

14 1. The child appears to have an emotional disturbance  
15 serious enough to require residential treatment and is  
16 reasonably likely to benefit from the treatment.

17 2. The child has been provided with a clinically  
18 appropriate explanation of the nature and purpose of the  
19 treatment.

20 3. All available modalities of treatment less  
21 restrictive than residential treatment have been considered,  
22 and a less restrictive alternative that would offer comparable  
23 benefits to the child is unavailable.

24  
25 A copy of the written findings of the evaluation and  
26 suitability assessment must be provided to the department and  
27 to the guardian ad litem, who shall have the opportunity to  
28 discuss the findings with the evaluator.

29 (d) Immediately upon placing a child in a residential  
30 treatment program under this section, the department must  
31 notify the guardian ad litem and the court having jurisdiction

1 over the child and must provide the guardian ad litem and the  
2 court with a copy of the assessment by the qualified  
3 evaluator.

4 (e) Within 10 days after the admission of a child to a  
5 residential treatment program, the director of the residential  
6 treatment program or the director's designee must ensure that  
7 an individualized plan of treatment has been prepared by the  
8 program and has been explained to the child, to the  
9 department, and to the guardian ad litem, and submitted to the  
10 department. The child must be involved in the preparation of  
11 the plan to the maximum feasible extent consistent with his or  
12 her ability to understand and participate, and the guardian ad  
13 litem and the child's foster parents must be involved to the  
14 maximum extent consistent with the child's treatment needs.  
15 The plan must include a preliminary plan for residential  
16 treatment and aftercare upon completion of residential  
17 treatment. The plan must include specific behavioral and  
18 emotional goals against which the success of the residential  
19 treatment may be measured. A copy of the plan must be provided  
20 to the child, to the guardian ad litem, and to the department.

21 (f) Within 30 days after admission, the residential  
22 treatment program must review the appropriateness and  
23 suitability of the child's placement in the program. The  
24 residential treatment program must determine whether the child  
25 is receiving benefit toward the treatment goals and whether  
26 the child could be treated in a less restrictive treatment  
27 program. The residential treatment program shall prepare a  
28 written report of its findings and submit the report to the  
29 guardian ad litem and to the department. The department must  
30 submit the report to the court. The report must include a  
31 discharge plan for the child. The residential treatment

1 program must continue to evaluate the child's treatment  
2 progress every 30 days thereafter and must include its  
3 findings in a written report submitted to the department. The  
4 department may not reimburse a facility until the facility has  
5 submitted every written report that is due.

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

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

17 3. For any child in residential treatment at the time  
18 a judicial review is held pursuant to s. 39.701, the child's  
19 continued placement in residential treatment must be a subject  
20 of the judicial review.

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

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

29 (i) The department must adopt rules for implementing  
30 timeframes for the completion of suitability assessments by  
31 qualified evaluators and a procedure that includes timeframes

1 for completing the 3-month independent review by the qualified  
2 evaluators of the child's progress toward achieving the goals  
3 and objectives of the treatment plan which review must be  
4 submitted to the court. The Agency for Health Care  
5 Administration must adopt rules for the registration of  
6 qualified evaluators, the procedure for selecting the  
7 evaluators to conduct the reviews required under this section,  
8 and a reasonable, cost-efficient fee schedule for qualified  
9 evaluators.

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

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

19 (8) Except as otherwise provided herein, nothing in  
20 this section shall be deemed to alter the provisions of s.  
21 743.064.

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

28 (10) Nothing in this section shall be construed to  
29 authorize the permanent sterilization of the child unless such  
30 sterilization is the result of or incidental to medically  
31

1 necessary treatment to protect or preserve the life of the  
2 child.

3 (11) For the purpose of obtaining an evaluation or  
4 examination, or receiving treatment as authorized pursuant to  
5 this section, no child alleged to be or found to be dependent  
6 shall be placed in a detention home or other program used  
7 primarily for the care and custody of children alleged or  
8 found to have committed delinquent acts.

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

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

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

30 (15) At any time after a shelter petition or petition  
31 for dependency is filed, if the mental or physical condition

1 of a child or the child's parent, caregiver, legal custodian,  
2 or other person requesting custody of the child is in  
3 controversy, the court, if it has not already done so, may  
4 order the person to submit to a substance abuse assessment and  
5 evaluation. The assessment or evaluation must be administered  
6 by a qualified professional, as defined in s. 397.311. The  
7 order may be made only upon good cause shown and pursuant to  
8 the notice and procedures set forth in the Florida Rules of  
9 Juvenile Procedure.

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

12 39.507 Adjudicatory hearings; orders of  
13 adjudication.--

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

1 subsection may be made only upon good cause shown and pursuant  
2 to the notice and procedures set forth in the Florida Rules of  
3 Juvenile Procedure.

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

6 39.521 Disposition hearings; powers of disposition.--

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

15 (b) When any child is adjudicated by a court to be  
16 dependent, the court having jurisdiction of the child has the  
17 power by order to:

18 1. Require, if the court has not already done so, a  
19 child or the child's parent, caregiver, legal custodian, or  
20 other person requesting custody of the child to submit to a  
21 substance abuse assessment or evaluation when such person's  
22 mental or physical condition is in controversy. The assessment  
23 or evaluation must be administered by a qualified  
24 professional, as defined in s. 397.311. The court may also  
25 require such person to participate in treatment and services  
26 identified as necessary, including participation and  
27 compliance with a treatment-based drug court program, when  
28 appropriate and if available. The court, including the  
29 treatment-based drug court program, shall oversee the progress  
30 and compliance with treatment by the child or the child's  
31 parent, legal custodian, caregiver, or other person requesting



1 custody of the child, and shall impose appropriate available  
2 sanctions for noncompliance upon the child's parent, legal  
3 custodian, caregiver, or other person requesting custody of  
4 the child. Any order entered under this paragraph may be made  
5 only upon good cause shown and pursuant to the notice and  
6 procedures set forth in the Florida Rules of Juvenile  
7 Procedure ~~the parent and, when appropriate, the legal~~  
8 ~~custodian and the child, to participate in treatment and~~  
9 ~~services identified as necessary.~~

10           2. Require, if the court deems necessary, the parties  
11 to participate in dependency mediation.

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

1 required, so long as permanency has been established for the  
2 child.

3 Section 6. Paragraph (d) of subsection (8) of section  
4 39.701, Florida Statutes, is amended to read:

5 39.701 Judicial review.--

6 (8)

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

24 Section 7. Section 397.334, Florida Statutes, is  
25 amended to read:

26 397.334 Treatment-based drug court programs.--

27 (1) Each county may fund a treatment-based drug court  
28 program under which persons in the justice system assessed  
29 with a substance abuse problem will be processed in such a  
30 manner as to appropriately address the severity of the  
31 identified substance abuse problem through treatment plans

1 tailored to the individual needs of the participant. It is the  
2 intent of the Legislature to encourage the Department of  
3 Corrections, the Department of Children and Family Services,  
4 the Department of Juvenile Justice, the Department of Health,  
5 the Department of Law Enforcement, the Department of  
6 Education, and other such ~~other~~ agencies, local governments,  
7 law enforcement agencies, ~~and~~ other interested public or  
8 private sources, and individuals to support the creation and  
9 establishment of these problem-solving court programs.  
10 Participation in the treatment-based drug court programs does  
11 not divest any public or private agency of its responsibility  
12 for a child or adult, but enables ~~allows~~ these agencies to  
13 better meet their needs through shared responsibility and  
14 resources.

15 (2) The treatment-based drug court programs shall  
16 include therapeutic jurisprudence principles and adhere to the  
17 following 10 key components, recognized by the Drug Courts  
18 Program Office of the Office of Justice Programs of the United  
19 States Department of Justice and adopted by the Florida  
20 Supreme Court Treatment-Based Drug Court Steering Committee:

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

23 (b) Using a nonadversarial approach, prosecution and  
24 defense counsel promote public safety while protecting  
25 participants' due process rights.

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

28 (d) Drug court programs provide access to a continuum of  
29 alcohol, drug, and other related treatment and rehabilitation  
30 services.

31

1 (e) Abstinence is monitored by frequent testing for  
2 alcohol and other drugs.

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

5 (g) Ongoing judicial interaction with each drug court  
6 program participant is essential.

7 (h) Monitoring and evaluation measure the achievement  
8 of program goals and gauge program effectiveness.

9 (i) Continuing interdisciplinary education promotes  
10 effective drug court program planning, implementation, and  
11 operations.

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

15 (3) Treatment-based drug court programs may include  
16 pretrial intervention programs as provided in ss. 948.08,  
17 948.16, and 985.306.

18 (4) Contingent upon an annual appropriation by the  
19 Legislature, each judicial circuit shall establish, at a  
20 minimum, one coordinator position for the treatment-based drug  
21 court program within the state courts system to coordinate the  
22 responsibilities of the participating agencies and service  
23 providers. Each coordinator shall provide direct support to  
24 the treatment-based drug court program by providing  
25 coordination between the multidisciplinary team and the  
26 judiciary, providing case management, monitoring compliance of  
27 the participants in the treatment-based drug court program  
28 with court requirements, and providing program evaluation and  
29 accountability.

30 (5)(4)(a) The Florida Association of Drug Court  
31 Program Professionals is created. The membership of the

1 association may consist of drug court program practitioners  
2 who comprise the multidisciplinary drug court program team,  
3 including, but not limited to, judges, state attorneys,  
4 defense counsel, drug court program coordinators, probation  
5 officers, law enforcement officers, members of the academic  
6 community, and treatment professionals. Membership in the  
7 association shall be voluntary.

8 (b) The association shall annually elect a chair whose  
9 duty is to solicit recommendations from members on issues  
10 relating to the expansion, operation, and institutionalization  
11 of drug court programs. The chair is responsible for providing  
12 the association's recommendations to the Supreme Court  
13 Treatment-Based Drug Court Steering Committee, and shall  
14 submit a report each year, on or before October 1, to the  
15 steering committee.

16 ~~(6)(5)~~ If a county chooses to fund a treatment-based  
17 drug court program, the county must secure funding from  
18 sources other than the state for those costs not otherwise  
19 assumed by the state pursuant to s. 29.004. Counties may  
20 provide, by interlocal agreement, for the collective funding  
21 of these programs.

22 (7) The chief judge of each judicial circuit may  
23 appoint an advisory committee for the treatment-based drug  
24 court program. The committee shall be composed of the chief  
25 judge, or his or her designee, who shall serve as chair; the  
26 judge of the treatment-based drug court program, if not  
27 otherwise designated by the chief judge as his or her  
28 designee; the state attorney, or his or her designee; the  
29 public defender, or his or her designee; the treatment-based  
30 drug court program coordinators; community representatives;  
31 and any other persons the chair finds are appropriate.

1           Section 8. Paragraphs (b) and (e) of subsection (5) of  
2 section 910.035, Florida Statutes, are amended to read:

3           910.035 Transfer from county for plea and sentence.--

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

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

14           (e) Upon successful completion of the drug court  
15 program, the jurisdiction to which the case has been  
16 transferred shall dispose of the case pursuant to s.  
17 948.08(6). If the defendant does not complete the drug court  
18 program successfully, the jurisdiction to which the case has  
19 been transferred shall dispose of the case within the  
20 guidelines of the Criminal Punishment Code ~~case shall be~~  
21 ~~prosecuted as determined by the state attorneys of the sending~~  
22 ~~and receiving counties.~~

23           Section 9. Subsections (6), (7), and (8) of section  
24 948.08, Florida Statutes, are amended to read:

25           948.08 Pretrial intervention program.--

26           (6)(a) Notwithstanding any provision of this section,  
27 a person who is charged with a felony of the second or third  
28 degree for purchase or possession of a controlled substance  
29 under chapter 893, prostitution, tampering with evidence,  
30 solicitation for purchase of a controlled substance, or  
31 obtaining a prescription by fraud; who has not been charged

1 with a crime involving violence, including, but not limited  
2 to, murder, sexual battery, robbery, carjacking, home-invasion  
3 robbery, or any other crime involving violence; and who has  
4 not previously been convicted of a felony ~~nor been admitted to~~  
5 ~~a felony pretrial program referred to in this section~~ is  
6 eligible for admission into a pretrial substance abuse  
7 education and treatment intervention program approved by the  
8 chief judge of the circuit, for a period of not less than 1  
9 year in duration, upon motion of either party or the court's  
10 own motion, except:

11 ~~1. If a defendant was previously offered admission to~~  
12 ~~a pretrial substance abuse education and treatment~~  
13 ~~intervention program at any time prior to trial and the~~  
14 ~~defendant rejected that offer on the record, then the court or~~  
15 ~~the state attorney may deny the defendant's admission to such~~  
16 ~~a program.~~

17 ~~2.~~ if the state attorney believes that the facts and  
18 circumstances of the case suggest the defendant's involvement  
19 in the dealing and selling of controlled substances, the court  
20 shall hold a preadmission hearing. If the state attorney  
21 establishes, by a preponderance of the evidence at such  
22 hearing, that the defendant was involved in the dealing or  
23 selling of controlled substances, the court shall deny the  
24 defendant's admission into a pretrial intervention program.

25 (b) Notwithstanding any provision of this section, a  
26 person who is charged with a nonviolent third-degree felony  
27 and is assessed with a substance abuse problem who has not  
28 been charged with a crime involving violence, including, but  
29 not limited to, murder, sexual battery, robbery, carjacking,  
30 home-invasion robbery, or any other crime involving violence,  
31 and who has not previously been convicted of a felony is

1 eligible for admission into a pretrial substance abuse  
2 education and treatment intervention program as set forth in  
3 paragraph (a).

4 (c) Notwithstanding any provision of this section, a  
5 defendant who is charged with a second or subsequent  
6 nonviolent third-degree felony who has not been charged with a  
7 crime involving violence, including, but not limited to,  
8 murder, sexual battery, robbery, carjacking, home-invasion  
9 robbery, or any other crime involving violence, upon approval  
10 of the state attorney, is eligible for admission into the  
11 pretrial substance abuse education and treatment intervention  
12 program as set forth in paragraph (a).

13 (d)(b) At the end of the pretrial intervention period,  
14 the court shall consider the recommendation of the  
15 administrator pursuant to subsection (5) and the  
16 recommendation of the state attorney as to disposition of the  
17 pending charges. The court shall determine, by written  
18 finding, whether the defendant has successfully completed the  
19 pretrial intervention program.

20 (e)(c)1. If the court finds that the defendant has not  
21 successfully completed the pretrial intervention program, the  
22 court may order the person to continue in education and  
23 treatment or order that the charges revert to normal channels  
24 for prosecution.

25 2. The court shall dismiss the charges upon a finding  
26 that the defendant has successfully completed the pretrial  
27 intervention program.

28 (f)(d) Any entity, whether public or private,  
29 providing a pretrial substance abuse education and treatment  
30 intervention program under this subsection must contract with  
31 the county or appropriate governmental entity, and the terms



1 of the contract must include, but need not be limited to, the  
2 requirements established for private entities under s.  
3 948.15(3).

4 ~~(7) The chief judge in each circuit may appoint an~~  
5 ~~advisory committee for the pretrial intervention program~~  
6 ~~composed of the chief judge or his or her designee, who shall~~  
7 ~~serve as chair; the state attorney, the public defender, and~~  
8 ~~the program administrator, or their designees; and such other~~  
9 ~~persons as the chair deems appropriate. The advisory committee~~  
10 ~~may not designate any defendant eligible for a pretrial~~  
11 ~~intervention program for any offense that is not listed under~~  
12 ~~paragraph (6)(a) without the state attorney's recommendation~~  
13 ~~and approval. The committee may also include persons~~  
14 ~~representing any other agencies to which persons released to~~  
15 ~~the pretrial intervention program may be referred.~~

16 ~~(7)(8)~~ The department may contract for the services  
17 and facilities necessary to operate pretrial intervention  
18 programs.

19 Section 10. Section 985.306, Florida Statutes, is  
20 amended to read:

21 985.306 Delinquency pretrial intervention program.--

22 (1)~~(a)~~ Notwithstanding any provision of law to the  
23 contrary, a child who is charged ~~under chapter 893~~ with a  
24 misdemeanor; a felony of the second or third degree for  
25 purchase or possession of a controlled substance under chapter  
26 893; tampering with evidence; solicitation for purchase of a  
27 controlled substance; or obtaining a prescription by fraud,  
28 and who has not previously been adjudicated for a felony ~~nor~~  
29 ~~been admitted to a delinquency pretrial intervention program~~  
30 ~~under this section~~, is eligible for admission into a  
31 delinquency pretrial substance abuse education and treatment

1 intervention program approved by the chief judge or  
2 alternative sanctions coordinator of the circuit to the extent  
3 that funded programs are available, for a period based on the  
4 program requirements and the treatment services that are  
5 suitable for the offender ~~of not less than 1 year in duration,~~  
6 upon motion of either party or the court's own motion, except:

7  
8 (a) If the state attorney believes that the facts and  
9 circumstances of the case suggest the child's involvement in  
10 the dealing and selling of controlled substances, the court  
11 shall hold a preadmission hearing. If the state attorney  
12 establishes by a preponderance of the evidence at such hearing  
13 that the child was involved in the dealing and selling of  
14 controlled substances, the court shall deny the child's  
15 admission into a delinquency pretrial intervention program.

16 (b) A child assessed with a substance abuse problem  
17 who is charged for the first time with a nonviolent  
18 third-degree felony and a child assessed with a substance  
19 abuse problem who has previously been adjudicated guilty of or  
20 delinquent for a nonviolent third-degree felony who is charged  
21 with a second or subsequent nonviolent third-degree felony  
22 may, with the approval of the state attorney, be referred to  
23 the program outlined in this subsection. Upon successful  
24 completion of the program, the child is entitled to dismissal  
25 of the pending charge as provided in paragraph (3)(b).

26 ~~(2)(b)~~ At the end of the delinquency pretrial  
27 intervention period, the court shall consider the  
28 recommendation of the state attorney and the program  
29 administrator as to disposition of the pending charges. The  
30 court shall determine, by written finding, whether the child

31

1 has successfully completed the delinquency pretrial  
2 intervention program.

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

9 (b)2. The court may dismiss the charges upon a finding  
10 that the child has successfully completed the delinquency  
11 pretrial intervention program.

12 (4)(d) Any entity, whether public or private,  
13 providing pretrial substance abuse education, treatment  
14 intervention, and a urine monitoring program under this  
15 section must contract with the county or appropriate  
16 governmental entity, and the terms of the contract must  
17 include, but need not be limited to, the requirements  
18 established for private entities under s. 948.15(3). It is the  
19 intent of the Legislature that public or private entities  
20 providing substance abuse education and treatment intervention  
21 programs involve the active participation of parents, schools,  
22 churches, businesses, law enforcement agencies, and the  
23 department or its contract providers.

24 ~~(2) The chief judge in each circuit may appoint an~~  
25 ~~advisory committee for the delinquency pretrial intervention~~  
26 ~~program composed of the chief judge or designee, who shall~~  
27 ~~serve as chair; the state attorney, the public defender, and~~  
28 ~~the program administrator, or their designees; and such other~~  
29 ~~persons as the chair deems appropriate. The committee may also~~  
30 ~~include persons representing any other agencies to which~~

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1 ~~children released to the delinquency pretrial intervention~~  
2 ~~program may be referred.~~  
3       Section 11. This act shall take effect July 1, 2004.  
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