

By the Committees on Appropriations; Children and Families;
and Senator Lynn

309-2258-04

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. 39.734, 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:

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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
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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, the court may order the
27 child or the child's parent, caregiver, legal custodian, or
28 other person requesting custody of the child, to submit to a
29 substance abuse assessment or evaluation. The assessment or
30 evaluation must be administered by a qualified professional,
31 as defined in s. 397.311. The order may be made only upon good

1 cause shown and pursuant to the notice and procedures set
2 forth in the Florida Rules of Juvenile Procedure.

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

5 39.407 Medical, psychiatric, and psychological
6 examination and treatment of child; physical, or mental, or
7 substance abuse examination of parent or person requesting
8 custody of child.--

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

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

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

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

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
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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, the court may order a child or the

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

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

11 39.507 Adjudicatory hearings; orders of
12 adjudication.--

13 (9) The court may order a child or the child's parent,
14 caregiver, legal custodian, or other person requesting custody
15 of the child, if it has not already done so, to submit to a
16 substance abuse assessment or evaluation. The assessment or
17 evaluation must be administered by a qualified professional,
18 as defined in s. 397.311. The court may also require such
19 person to participate in and comply with treatment and
20 services identified as necessary, including, when appropriate
21 and available, participation and compliance with a
22 treatment-based drug court program. The court, including the
23 treatment-based drug court program, shall oversee the progress
24 and compliance with treatment by the child or the child's
25 parent, legal custodian, caregiver, or other person requesting
26 custody of the child, and shall impose appropriate available
27 sanctions for noncompliance upon the child's parent, legal
28 custodian, caregiver, or other person requesting custody of
29 the child. Any order entered under this subsection may be made
30 only upon good cause shown and pursuant to the notice and
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1 procedures set forth in the Florida Rules of Juvenile
2 Procedure.

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

5 39.521 Disposition hearings; powers of disposition.--

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

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

17 1. Require the parent and, when appropriate, the legal
18 custodian and the child, to participate in treatment and
19 services identified as necessary. The court may require a
20 child or the child's parent, caregiver, legal custodian, or
21 other person requesting custody of the child, to submit to a
22 substance abuse assessment or evaluation. The assessment or
23 evaluation must be administered by a qualified professional,
24 as defined in s. 397.311. The court may also require such
25 person to participate in and comply with treatment and
26 services 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 or the child's
3 parent, legal custodian, caregiver, or other person requesting
4 custody of the child. Any order entered under this paragraph
5 may be made only upon good cause shown and pursuant to the
6 notice and procedures set forth in the Florida Rules of
7 Juvenile Procedure.

8 2. Require, if the court deems necessary, the parties
9 to participate in dependency mediation.

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

1 Section 6. Paragraph (d) of subsection (8) of section
2 39.701, Florida Statutes, is amended to read:

3 39.701 Judicial review.--

4 (8)

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

22 Section 7. Section 397.334, Florida Statutes, is
23 amended to read:

24 397.334 Treatment-based drug court programs.--

25 (1) Each county may fund a treatment-based drug court
26 program under which persons in the justice system assessed
27 with a substance abuse problem will be processed in such a
28 manner as to appropriately address the severity of the
29 identified substance abuse problem through treatment services
30 ~~plans~~ tailored to the individual needs of the participant. It
31 is the intent of the Legislature to encourage the Department

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

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

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

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

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

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

29 (e) Abstinence is monitored by frequent testing for
30 alcohol and other drugs.

31

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

3 (g) Ongoing judicial interaction with each drug court
4 program participant is essential.

5 (h) Monitoring and evaluation measure the achievement
6 of program goals and gauge program effectiveness.

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

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

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

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

28 (5)(4)(a) The Florida Association of Drug Court
29 ~~Program~~ Professionals is created. The membership of the
30 association may consist of treatment-based drug court program
31 practitioners who comprise the multidisciplinary

1 treatment-based drug court program team, including, but not
2 limited to, judges, state attorneys, defense counsel, ~~drug~~
3 ~~court~~ program coordinators, probation officers, law
4 enforcement officers, community representatives, members of
5 the academic community, and treatment professionals.

6 Membership in the association shall be voluntary.

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

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

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

1 treatment representatives; and any other persons the chair
2 finds are appropriate.

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

5 910.035 Transfer from county for plea and sentence.--

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

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

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

25 Section 9. Subsections (6), (7), and (8) of section
26 948.08, Florida Statutes, are amended to read:

27 948.08 Pretrial intervention program.--

28 (6)(a) Notwithstanding any provision of this section,
29 a person who is charged with a felony of the second or third
30 degree for purchase or possession of a controlled substance
31 under chapter 893, prostitution, tampering with evidence,

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

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

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

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

1 home-invasion robbery, or any other crime involving violence,
2 and who has not previously been convicted of a felony is
3 eligible for admission into a pretrial substance abuse
4 education and treatment intervention program as set forth in
5 paragraph (a).

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

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

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

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

30 (f)~~(d)~~ Any entity, whether public or private,
31 providing a pretrial substance abuse education and treatment

1 intervention program under this subsection must contract with
2 the county or appropriate governmental entity, and the terms
3 of the contract must include, but need not be limited to, the
4 requirements established for private entities under s.
5 948.15(3).

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

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

21 Section 10. Section 985.306, Florida Statutes, is
22 amended to read:

23 985.306 Delinquency pretrial intervention program.--

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

1 ~~under this section~~, is eligible for admission into a
2 delinquency pretrial substance abuse education and treatment
3 intervention program approved by the chief judge or
4 alternative sanctions coordinator of the circuit to the extent
5 that funded programs are available, for a period based on the
6 program requirements and the treatment services that are
7 suitable for the offender ~~of not less than 1 year in duration~~,
8 upon motion of either party or the court's own motion.
9 However, if the state attorney believes that the facts and
10 circumstances of the case suggest the child's involvement in
11 the dealing and selling of controlled substances, the court
12 shall hold a preadmission hearing. If the state attorney
13 establishes by a preponderance of the evidence at such hearing
14 that the child was involved in the dealing and selling of
15 controlled substances, the court shall deny the child's
16 admission into a delinquency pretrial intervention program.
17 (b) A child who is charged for the first time with a
18 nonviolent third-degree felony and is assessed with a
19 substance abuse problem, who has not been charged with a crime
20 involving violence, including, but not limited to, murder,
21 sexual battery, robbery, carjacking, home-invasion robbery, or
22 any other crime involving violence, and who has not previously
23 been adjudicated of a felony is eligible for admission into a
24 pretrial substance abuse education and treatment intervention
25 program as set forth in paragraph (a).
26 (c) A child who is charged with a second or subsequent
27 nonviolent third-degree felony and is assessed with a
28 substance abuse problem, who has not been charged with a crime
29 involving violence, including, but not limited to, murder,
30 sexual battery, robbery, carjacking, home-invasion robbery, or
31 any other crime involving violence, upon approval of the state

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

4 (2)~~(b)~~ At the end of the delinquency pretrial
5 intervention period, the court shall consider the
6 recommendation of the state attorney and the program
7 administrator as to disposition of the pending charges. The
8 court shall determine, by written finding, whether the child
9 has successfully completed the delinquency pretrial
10 intervention program.

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

17 (b)~~2~~. The court may dismiss the charges upon a finding
18 that the child has successfully completed the delinquency
19 pretrial intervention program.

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

1 ~~(2) The chief judge in each circuit may appoint an~~
2 ~~advisory committee for the delinquency pretrial intervention~~
3 ~~program composed of the chief judge or designee, who shall~~
4 ~~serve as chair; the state attorney, the public defender, and~~
5 ~~the program administrator, or their designees; and such other~~
6 ~~persons as the chair deems appropriate. The committee may also~~
7 ~~include persons representing any other agencies to which~~
8 ~~children released to the delinquency pretrial intervention~~
9 ~~program may be referred.~~

10 Section 11. This act shall take effect July 1, 2004.

11
12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
13 COMMITTEE SUBSTITUTE FOR
14 CS for SB 316

- 15
16 - Provides that treatment-based drug court programs may
 include post adjudicatory programs.
- 17 - Adds community representatives to the composition of the
18 Florida Association of Drug Court Professionals.
- 19 - For purpose of determining whether a child may be
20 eligible for admission to a pretrial substance abuse
 education and treatment program, specifies that crimes
21 involving violence include, but are not limited to,
 murder, sexual battery, robbery, carjacking,
22 home-invasion robbery, or any other crime involving
 violence.
- 23 - Specifies that a child charged for the first time with a
24 nonviolent third-degree felony may be eligible for
 admission to a pretrial substance abuse education and
25 treatment program if the child has not previously been
 adjudicated of a felony.