

1                   A bill to be entitled  
2           An act relating to drug court programs; amending s.  
3           39.001, F.S.; providing additional legislative purposes  
4           and intent with respect to the treatment of substance  
5           abuse, including the use of the drug court program model;  
6           authorizing the court to require certain persons to  
7           undergo treatment following adjudication; providing that  
8           the court is not precluded from ordering drug testing;  
9           amending ss. 39.402 and 39.407, F.S.; authorizing the  
10          court to order specified persons to submit to a substance  
11          abuse assessment upon a showing of good cause in  
12          connection with a shelter hearing or petition for  
13          dependency; amending ss. 39.507 and 39.521, F.S.;  
14          authorizing the court to order specified persons to submit  
15          to a substance abuse assessment as part of an adjudicatory  
16          order or pursuant to a disposition hearing; requiring a  
17          showing of good cause; authorizing the court to require  
18          participation in a treatment-based drug court program;  
19          authorizing the court to impose sanctions for  
20          noncompliance; amending s. 39.701, F.S.; authorizing the  
21          court to extend the time for completing a case plan during  
22          judicial review, based upon participation in a treatment-  
23          based drug court program; amending s. 397.334, F.S.;  
24          revising legislative intent with respect to treatment-  
25          based drug court programs to reflect participation by  
26          community support agencies, the Department of Education,  
27          and other individuals; including postadjudicatory programs  
28          as part of treatment-based drug court programs; providing

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29 requirements and sanctions, including clinical placement  
30 or incarceration, for the coordinated strategy developed  
31 by the drug court team to encourage participant  
32 compliance; requiring each judicial circuit to establish a  
33 position for a coordinator of the treatment-based drug  
34 court program, subject to annual appropriation by the  
35 Legislature; authorizing the chief judge of each judicial  
36 circuit to appoint an advisory committee for the  
37 treatment-based drug court program; providing for  
38 membership of the committee; revising language with  
39 respect to an annual report; amending s. 910.035, F.S.;  
40 revising language with respect to conditions for the  
41 transfer of a case in the drug court treatment program to  
42 a county other than that in which the charge arose;  
43 amending ss. 948.08, 948.16, and 985.306, F.S., relating  
44 to felony, misdemeanor, and delinquency pretrial substance  
45 abuse education and treatment intervention programs;  
46 providing requirements and sanctions, including clinical  
47 placement or incarceration, for the coordinated strategy  
48 developed by the drug court team to encourage participant  
49 compliance and removing provisions authorizing appointment  
50 of an advisory committee, to conform to changes made by  
51 the act; providing an effective date.

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

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

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

59 (4) SUBSTANCE ABUSE SERVICES.--

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

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

77 1. To ensure the safety of children.

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

83 3. To expedite permanency for children and reunify  
84 healthy, intact families, when appropriate.

85 4. To support families in recovery.

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

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

110 (e) It is therefore the purpose of the Legislature to  
111 provide authority for the state to contract with community  
112 substance abuse treatment providers for the development and

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113 operation of specialized support and overlay services for the  
 114 dependency system, which will be fully implemented and used  
 115 utilized as resources permit.

116 (f) It is the intent of the Legislature to encourage the  
 117 Department of Children and Family Services, in conjunction with  
 118 community agencies; treatment-based facilities; facilities  
 119 dedicated to child welfare, child development, and mental health  
 120 services; the Department of Health; other similar agencies;  
 121 local governments; law enforcement agencies; and other  
 122 interested public or private sources to support the drug court  
 123 program model. Participation in the treatment-based drug court  
 124 program does not divest any public or private agency of its  
 125 responsibility for a child or adult, but enables these agencies  
 126 to better meet their needs through shared responsibility and  
 127 resources.

128 Section 2. Subsections (11) through (16) of section  
 129 39.402, Florida Statutes, are renumbered as subsections (12)  
 130 through (17), respectively, and a new subsection (11) is added  
 131 to said section to read:

132 39.402 Placement in a shelter.--

133 (11) At the shelter hearing, the court may order the child  
 134 or the child's parent, caregiver, legal custodian, or other  
 135 person requesting custody of the child to submit to a substance  
 136 abuse assessment or evaluation. The assessment or evaluation  
 137 must be administered by a qualified professional, as defined in  
 138 s. 397.311. The order may be made only upon good cause shown.

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

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

144           (1) When any child is removed from the home and maintained  
 145 in an out-of-home placement, the department is authorized to  
 146 have a medical screening performed on the child without  
 147 authorization from the court and without consent from a parent  
 148 or legal custodian. Such medical screening shall be performed by  
 149 a licensed health care professional and shall be to examine the  
 150 child for injury, illness, and communicable diseases and to  
 151 determine the need for immunization. The department shall by  
 152 rule establish the invasiveness of the medical procedures  
 153 authorized to be performed under this subsection. In no case  
 154 does this subsection authorize the department to consent to  
 155 medical treatment for such children.

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

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

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

166           (b) If a parent or legal custodian of the child is  
 167 unavailable and his or her whereabouts cannot be reasonably  
 168 ascertained, and it is after normal working hours so that a

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169 court order cannot reasonably be obtained, an authorized agent  
170 of the department shall have the authority to consent to  
171 necessary medical treatment, including immunization, for the  
172 child. The authority of the department to consent to medical  
173 treatment in this circumstance shall be limited to the time  
174 reasonably necessary to obtain court authorization.

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

185

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

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

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

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196 394.463(2) or chapter 393 shall be used, whichever is  
197 applicable.

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

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

219 (5) Children who are in the legal custody of the  
220 department may be placed by the department, without prior  
221 approval of the court, in a residential treatment center  
222 licensed under s. 394.875 or a hospital licensed under chapter  
223 395 for residential mental health treatment only pursuant to



224 | this section or may be placed by the court in accordance with an  
 225 | order of involuntary examination or involuntary placement  
 226 | entered pursuant to s. 394.463 or s. 394.467. All children  
 227 | placed in a residential treatment program under this subsection  
 228 | must have a guardian ad litem appointed.

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

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

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

239 |             3. "Suitable for residential treatment" or "suitability"  
 240 | means a determination concerning a child or adolescent with an  
 241 | emotional disturbance as defined in s. 394.492(5) or a serious  
 242 | emotional disturbance as defined in s. 394.492(6) that each of  
 243 | the following criteria is met:

244 |                 a. The child requires residential treatment.

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

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

249 |         (b) Whenever the department believes that a child in its  
 250 | legal custody is emotionally disturbed and may need residential  
 251 | treatment, an examination and suitability assessment must be

252 | conducted by a qualified evaluator who is appointed by the  
253 | Agency for Health Care Administration. This suitability  
254 | assessment must be completed before the placement of the child  
255 | in a residential treatment center for emotionally disturbed  
256 | children and adolescents or a hospital. The qualified evaluator  
257 | must be a psychiatrist or a psychologist licensed in Florida who  
258 | has at least 3 years of experience in the diagnosis and  
259 | treatment of serious emotional disturbances in children and  
260 | adolescents and who has no actual or perceived conflict of  
261 | interest with any inpatient facility or residential treatment  
262 | center or program.

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

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

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

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

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

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

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

305 (f) Within 30 days after admission, the residential  
306 treatment program must review the appropriateness and

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

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

325 2. The court must conduct a hearing to review the status  
326 of the child's residential treatment plan no later than 3 months  
327 after the child's admission to the residential treatment  
328 program. An independent review of the child's progress toward  
329 achieving the goals and objectives of the treatment plan must be  
330 completed by a qualified evaluator and submitted to the court  
331 before its 3-month review.

332 3. For any child in residential treatment at the time a  
333 judicial review is held pursuant to s. 39.701, the child's

334 continued placement in residential treatment must be a subject  
335 of the judicial review.

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

341 (h) After the initial 3-month review, the court must  
342 conduct a review of the child's residential treatment plan every  
343 90 days.

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

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

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

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

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

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

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

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

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

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

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

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

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

415 |       39.507 Adjudicatory hearings; orders of adjudication.--  
 416 |       (9) The court may order a child or the child's parent,

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

434 Section 5. Paragraph (b) of subsection (1) of section  
 435 39.521, Florida Statutes, is amended to read:

436 39.521 Disposition hearings; powers of disposition.--

437 (1) A disposition hearing shall be conducted by the court,  
 438 if the court finds that the facts alleged in the petition for  
 439 dependency were proven in the adjudicatory hearing, or if the  
 440 parents or legal custodians have consented to the finding of  
 441 dependency or admitted the allegations in the petition, have  
 442 failed to appear for the arraignment hearing after proper  
 443 notice, or have not been located despite a diligent search  
 444 having been conducted.



445 (b) When any child is adjudicated by a court to be  
446 dependent, the court having jurisdiction of the child has the  
447 power by order to:

448 1. Require the parent and, when appropriate, the legal  
449 custodian and the child, to participate in treatment and  
450 services identified as necessary. The court may require a child  
451 or the child's parent, caregiver, legal custodian, or other  
452 person requesting custody of the child to submit to a substance  
453 abuse assessment or evaluation. The assessment or evaluation  
454 must be administered by a qualified professional, as defined in  
455 s. 397.311. The court may also require such person to  
456 participate in and comply with treatment and services identified  
457 as necessary, including participation in and compliance with a  
458 treatment-based drug court program, when appropriate and if  
459 available. The court, including the treatment-based drug court  
460 program, shall oversee the progress and compliance with  
461 treatment by the child or the child's parent, legal custodian,  
462 caregiver, or other person requesting custody of the child and  
463 shall impose appropriate available sanctions for noncompliance  
464 upon the child or the child's parent, legal custodian,  
465 caregiver, or other person requesting custody of the child. Any  
466 order entered under this subparagraph may be made only upon good  
467 cause shown.

468 2. Require, if the court deems necessary, the parties to  
469 participate in dependency mediation.

470 3. Require placement of the child either under the  
471 protective supervision of an authorized agent of the department  
472 in the home of one or both of the child's parents or in the home

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

491 Section 6. Paragraph (d) of subsection (9) of section  
 492 39.701, Florida Statutes, is amended to read:

493 39.701 Judicial review.--

494 (9)

495 (d) The court may extend the time limitation of the case  
 496 plan, or may modify the terms of the plan, which, in addition to  
 497 other modifications, may include a requirement that the parent,  
 498 foster parent, or legal custodian participate in a treatment-  
 499 based drug court program, based upon information provided by the  
 500 social service agency, and the guardian ad litem, if one has

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501 | been appointed, the parent or parents, and the foster parents or  
 502 | legal custodian, and any other competent information on record  
 503 | demonstrating the need for the amendment. If the court extends  
 504 | the time limitation of the case plan, the court must make  
 505 | specific findings concerning the frequency of past parent-child  
 506 | visitation, if any, and the court may authorize the expansion or  
 507 | restriction of future visitation. Modifications to the plan must  
 508 | be handled as prescribed in s. 39.601. Any extension of a case  
 509 | plan must comply with the time requirements and other  
 510 | requirements specified by this chapter.

511 |       Section 7. Section 397.334, Florida Statutes, is amended  
 512 | to read:

513 |       397.334 Treatment-based drug court programs.--

514 |       (1) Each county may fund a treatment-based drug court  
 515 | program under which persons in the justice system assessed with  
 516 | a substance abuse problem will be processed in such a manner as  
 517 | to appropriately address the severity of the identified  
 518 | substance abuse problem through treatment services ~~plans~~  
 519 | tailored to the individual needs of the participant. It is the  
 520 | intent of the Legislature to encourage the Department of  
 521 | Corrections, the Department of Children and Family Services, the  
 522 | Department of Juvenile Justice, the Department of Health, the  
 523 | Department of Law Enforcement, the Department of Education, and  
 524 | such ~~other~~ agencies, local governments, law enforcement  
 525 | agencies, ~~and~~ other interested public or private sources, and  
 526 | individuals to support the creation and establishment of these  
 527 | problem-solving court programs. Participation in the treatment-  
 528 | based drug court programs does not divest any public or private

529 agency of its responsibility for a child or adult, but enables  
 530 ~~allows~~ these agencies to better meet their needs through shared  
 531 responsibility and resources.

532 (2) The treatment-based drug court programs shall include  
 533 therapeutic jurisprudence principles and adhere to the following  
 534 10 key components, recognized by the Drug Courts Program Office  
 535 of the Office of Justice Programs of the United States  
 536 Department of Justice and adopted by the Florida Supreme Court  
 537 Treatment-Based Drug Court Steering Committee:

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

540 (b) Using a nonadversarial approach, prosecution and  
 541 defense counsel promote public safety while protecting  
 542 participants' due process rights.

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

545 (d) Drug court programs provide access to a continuum of  
 546 alcohol, drug, and other related treatment and rehabilitation  
 547 services.

548 (e) Abstinence is monitored by frequent testing for  
 549 alcohol and other drugs.

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

552 (g) Ongoing judicial interaction with each drug court  
 553 program participant is essential.

554 (h) Monitoring and evaluation measure the achievement of  
 555 program goals and gauge program effectiveness.

556 (i) Continuing interdisciplinary education promotes  
 557 effective drug court program planning, implementation, and  
 558 operations.

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

562 (3) Treatment-based drug court programs may include  
 563 pretrial intervention programs as provided in ss. 948.08,  
 564 948.16, and 985.306, postadjudicatory programs, and the  
 565 monitoring of sentenced offenders through a treatment-based drug  
 566 court program. Supervision may also be provided for offenders  
 567 who transfer from jail or a prison-based treatment program into  
 568 the community. While enrolled in any pretrial intervention  
 569 program, the participant is subject to a coordinated strategy  
 570 developed by the drug court team under paragraph (2)(f). Each  
 571 coordinated strategy must include a protocol of sanctions that  
 572 may be imposed upon the participant. The protocol of sanctions  
 573 must include as available options placement in a secure licensed  
 574 clinical or jail-based treatment program or serving a period of  
 575 incarceration for noncompliance with program rules within the  
 576 limits established for contempt of court. The coordinated  
 577 strategy must be provided in writing to the participant at the  
 578 time the participant enters into a pretrial drug court program.

579 (4) Contingent upon an annual appropriation by the  
 580 Legislature, each judicial circuit shall establish, at a  
 581 minimum, one coordinator position for the treatment-based drug  
 582 court program within the state courts system to coordinate the  
 583 responsibilities of the participating agencies and service

584 providers. Each coordinator shall provide direct support to the  
 585 treatment-based drug court program by providing coordination  
 586 between the multidisciplinary team and the judiciary, providing  
 587 case management, monitoring compliance of the participants in  
 588 the treatment-based drug court program with court requirements,  
 589 and providing program evaluation and accountability.

590 (5)(4)(a) The Florida Association of Drug Court ~~Program~~  
 591 Professionals is created. The membership of the association may  
 592 consist of treatment-based drug court program practitioners who  
 593 comprise the multidisciplinary treatment-based drug court  
 594 program team, including, but not limited to, judges, state  
 595 attorneys, defense counsel, ~~drug court~~ program coordinators,  
 596 probation officers, law enforcement officers, community  
 597 representatives, members of the academic community, and  
 598 treatment professionals. Membership in the association shall be  
 599 voluntary.

600 (b) The association shall annually elect a chair whose  
 601 duty is to solicit recommendations from members on issues  
 602 relating to the expansion, operation, and institutionalization  
 603 of treatment-based drug court programs. The chair is responsible  
 604 for providing on or before October 1 of each year the  
 605 association's recommendations and an annual report to the  
 606 appropriate Supreme Court ~~Treatment-Based Drug Court Steering~~  
 607 committee or to the appropriate personnel of the Office of the  
 608 State Courts Administrator, ~~and shall submit a report each year,~~  
 609 ~~on or before October 1, to the steering committee.~~

610 (6)(5) If a county chooses to fund a treatment-based drug  
 611 court program, the county must secure funding from sources other

612 than the state for those costs not otherwise assumed by the  
 613 state pursuant to s. 29.004. However, this does not preclude  
 614 counties from using treatment and other service dollars provided  
 615 through state executive branch agencies. Counties may provide,  
 616 by interlocal agreement, for the collective funding of these  
 617 programs.

618 (7) The chief judge of each judicial circuit may appoint  
 619 an advisory committee for the treatment-based drug court  
 620 program. The committee shall be composed of the chief judge, or  
 621 his or her designee, who shall serve as chair; the judge of the  
 622 treatment-based drug court program, if not otherwise designated  
 623 by the chief judge as his or her designee; the state attorney,  
 624 or his or her designee; the public defender, or his or her  
 625 designee; the treatment-based drug court program coordinators;  
 626 community representatives; treatment representatives; and any  
 627 other persons the chair finds are appropriate.

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

630 910.035 Transfer from county for plea and sentence.--

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

636 (b) If approval for transfer is received from all parties,  
 637 the trial court shall accept a plea of nolo contendere and enter  
 638 a transfer order directing the clerk to transfer the case to the

639 county which has accepted the defendant into its drug court  
 640 program.

641 (e) Upon successful completion of the drug court program,  
 642 the jurisdiction to which the case has been transferred shall  
 643 dispose of the case pursuant to s. 948.08(6). If the defendant  
 644 does not complete the drug court program successfully, the  
 645 jurisdiction to which the case has been transferred shall  
 646 dispose of the case within the guidelines of the Criminal  
 647 Punishment Code ~~case shall be prosecuted as determined by the~~  
 648 ~~state attorneys of the sending and receiving counties.~~

649 Section 9. Subsections (6), (7), and (8) of section  
 650 948.08, Florida Statutes, are amended to read:

651 948.08 Pretrial intervention program.--

652 (6)(a) Notwithstanding any provision of this section, a  
 653 person who is charged with a felony of the second or third  
 654 degree for purchase or possession of a controlled substance  
 655 under chapter 893, prostitution, tampering with evidence,  
 656 solicitation for purchase of a controlled substance, or  
 657 obtaining a prescription by fraud; who has not been charged with  
 658 a crime involving violence, including, but not limited to,  
 659 murder, sexual battery, robbery, carjacking, home-invasion  
 660 robbery, or any other crime involving violence; and who has not  
 661 previously been convicted of a felony nor been admitted to a  
 662 felony pretrial program referred to in this section is eligible  
 663 for admission into a pretrial substance abuse education and  
 664 treatment intervention program approved by the chief judge of  
 665 the circuit, for a period of not less than 1 year in duration,  
 666 upon motion of either party or the court's own motion, except:



667 1. If a defendant was previously offered admission to a  
668 pretrial substance abuse education and treatment intervention  
669 program at any time prior to trial and the defendant rejected  
670 that offer on the record, then the court or the state attorney  
671 may deny the defendant's admission to such a program.

672 2. If the state attorney believes that the facts and  
673 circumstances of the case suggest the defendant's involvement in  
674 the dealing and selling of controlled substances, the court  
675 shall hold a preadmission hearing. If the state attorney  
676 establishes, by a preponderance of the evidence at such hearing,  
677 that the defendant was involved in the dealing or selling of  
678 controlled substances, the court shall deny the defendant's  
679 admission into a pretrial intervention program.

680 (b) While enrolled in a pretrial intervention program  
681 authorized by this section, the participant is subject to a  
682 coordinated strategy developed by a drug court team under s.  
683 397.334(2). The coordinated strategy must include a protocol of  
684 sanctions that may be imposed upon the participant. The protocol  
685 of sanctions must include as available options placement in a  
686 secure licensed clinical or jail-based treatment program or  
687 serving a period of incarceration for noncompliance with program  
688 rules within the limits established for contempt of court. The  
689 coordinated strategy must be provided in writing to the  
690 participant at the time the participant enters into a pretrial  
691 drug court program.

692 (c)~~(b)~~ At the end of the pretrial intervention period, the  
693 court shall consider the recommendation of the administrator  
694 pursuant to subsection (5) and the recommendation of the state

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695 attorney as to disposition of the pending charges. The court  
 696 shall determine, by written finding, whether the defendant has  
 697 successfully completed the pretrial intervention program.

698 ~~(e)1.~~ If the court finds that the defendant has not  
 699 successfully completed the pretrial intervention program, the  
 700 court may order the person to continue in education and  
 701 treatment, which may include secure licensed clinical or jail-  
 702 based treatment programs, or order that the charges revert to  
 703 normal channels for prosecution.

704 2. The court shall dismiss the charges upon a finding that  
 705 the defendant has successfully completed the pretrial  
 706 intervention program.

707 (d) Any entity, whether public or private, providing a  
 708 pretrial substance abuse education and treatment intervention  
 709 program under this subsection must contract with the county or  
 710 appropriate governmental entity, and the terms of the contract  
 711 must include, but need not be limited to, the requirements  
 712 established for private entities under s. 948.15(3).

713 ~~(7) The chief judge in each circuit may appoint an~~  
 714 ~~advisory committee for the pretrial intervention program~~  
 715 ~~composed of the chief judge or his or her designee, who shall~~  
 716 ~~serve as chair; the state attorney, the public defender, and the~~  
 717 ~~program administrator, or their designees; and such other~~  
 718 ~~persons as the chair deems appropriate. The advisory committee~~  
 719 ~~may not designate any defendant eligible for a pretrial~~  
 720 ~~intervention program for any offense that is not listed under~~  
 721 ~~paragraph (6)(a) without the state attorney's recommendation and~~  
 722 ~~approval. The committee may also include persons representing~~

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

725 (7)~~(8)~~ The department may contract for the services and  
 726 facilities necessary to operate pretrial intervention programs.

727 Section 10. Section 948.16, Florida Statutes, is amended  
 728 to read:

729 948.16 Misdemeanor pretrial substance abuse education and  
 730 treatment intervention program.--

731 (1)(a) A person who is charged with a misdemeanor for  
 732 possession of a controlled substance or drug paraphernalia under  
 733 chapter 893, and who has not previously been convicted of a  
 734 felony nor been admitted to a pretrial program, is eligible for  
 735 admission into a misdemeanor pretrial substance abuse education  
 736 and treatment intervention program approved by the chief judge  
 737 of the circuit, for a period based on the program requirements  
 738 and the treatment plan for the offender, upon motion of either  
 739 party or the court's own motion, except, if the state attorney  
 740 believes the facts and circumstances of the case suggest the  
 741 defendant is involved in dealing and selling controlled  
 742 substances, the court shall hold a preadmission hearing. If the  
 743 state attorney establishes, by a preponderance of the evidence  
 744 at such hearing, that the defendant was involved in dealing or  
 745 selling controlled substances, the court shall deny the  
 746 defendant's admission into the pretrial intervention program.

747 (b) While enrolled in a pretrial intervention program  
 748 authorized by this section, the participant is subject to a  
 749 coordinated strategy developed by a drug court team under s.  
 750 397.334(2). The coordinated strategy must include a protocol of

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751 sanctions that may be imposed upon the participant. The protocol  
752 of sanctions must include as available options placement in a  
753 secure licensed clinical or jail-based treatment program or  
754 serving a period of incarceration for noncompliance with program  
755 rules within the limits established for contempt of court. The  
756 coordinated strategy must be provided in writing to the  
757 participant at the time the participant enters into a pretrial  
758 drug court program.

759 (2) At the end of the pretrial intervention period, the  
760 court shall consider the recommendation of the treatment program  
761 and the recommendation of the state attorney as to disposition  
762 of the pending charges. The court shall determine, by written  
763 finding, whether the defendant successfully completed the  
764 pretrial intervention program.

765 ~~(a)~~ If the court finds that the defendant has not  
766 successfully completed the pretrial intervention program, the  
767 court may order the person to continue in education and  
768 treatment or return the charges to the criminal docket for  
769 prosecution.

770 ~~(b)~~ The court shall dismiss the charges upon finding that  
771 the defendant has successfully completed the pretrial  
772 intervention program.

773 (3) Any public or private entity providing a pretrial  
774 substance abuse education and treatment program under this  
775 section shall contract with the county or appropriate  
776 governmental entity. The terms of the contract shall include,  
777 but not be limited to, the requirements established for private  
778 entities under s. 948.15(3).

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779 Section 11. Section 985.306, Florida Statutes, is amended  
780 to read:

781 985.306 Delinquency pretrial intervention program.--

782 (1)~~(a)~~ Notwithstanding any provision of law to the  
783 contrary, a child who is charged ~~under chapter 893~~ with a felony  
784 of the second or third degree for purchase or possession of a  
785 controlled substance under chapter 893; tampering with evidence;  
786 solicitation for purchase of a controlled substance; or  
787 obtaining a prescription by fraud, and who has not previously  
788 been adjudicated for a felony ~~nor been admitted to a delinquency~~  
789 ~~pretrial intervention program under this section~~, is eligible  
790 for admission into a delinquency pretrial substance abuse  
791 education and treatment intervention program approved by the  
792 chief judge or alternative sanctions coordinator of the circuit  
793 to the extent that funded programs are available, for a period  
794 based on the program requirements and the treatment services  
795 that are suitable for the offender ~~of not less than 1 year in~~  
796 ~~duration~~, upon motion of either party or the court's own motion.  
797 If the state attorney believes that the facts and circumstances  
798 of the case suggest the child's involvement in the dealing and  
799 selling of controlled substances, the court shall hold a  
800 preadmission hearing. If the state attorney establishes by a  
801 preponderance of the evidence at such hearing that the child was  
802 involved in the dealing and selling of controlled substances,  
803 the court shall deny the child's admission into a delinquency  
804 pretrial intervention program.

805 (2) While enrolled in a delinquency pretrial intervention  
806 program authorized by this section, a child is subject to a

807 coordinated strategy developed by a drug court team under s.  
 808 397.334(2). The coordinated strategy must include a protocol of  
 809 sanctions that may be imposed upon the child. The protocol of  
 810 sanctions must include as available options placement in a  
 811 secure licensed clinical facility or placement in a secure  
 812 detention facility under s. 985.216 for noncompliance with  
 813 program rules. The coordinated strategy must be provided in  
 814 writing to the child at the time the child enters the pretrial  
 815 drug court program.

816 (3)(b) At the end of the delinquency pretrial intervention  
 817 period, the court shall consider the recommendation of the state  
 818 attorney and the program administrator as to disposition of the  
 819 pending charges. The court shall determine, by written finding,  
 820 whether the child has successfully completed the delinquency  
 821 pretrial intervention program.

822 (e)1. If the court finds that the child has not  
 823 successfully completed the delinquency pretrial intervention  
 824 program, the court may order the child to continue in an  
 825 education, treatment, or urine monitoring program if resources  
 826 and funding are available or order that the charges revert to  
 827 normal channels for prosecution.

828 2. The court may dismiss the charges upon a finding that  
 829 the child has successfully completed the delinquency pretrial  
 830 intervention program.

831 (4)(d) Any entity, whether public or private, providing  
 832 pretrial substance abuse education, treatment intervention, and  
 833 a urine monitoring program under this section must contract with  
 834 the county or appropriate governmental entity, and the terms of

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835 the contract must include, but need not be limited to, the  
836 requirements established for private entities under s.  
837 948.15(3). It is the intent of the Legislature that public or  
838 private entities providing substance abuse education and  
839 treatment intervention programs involve the active participation  
840 of parents, schools, churches, businesses, law enforcement  
841 agencies, and the department or its contract providers.

842 ~~(2) The chief judge in each circuit may appoint an~~  
843 ~~advisory committee for the delinquency pretrial intervention~~  
844 ~~program composed of the chief judge or designee, who shall serve~~  
845 ~~as chair; the state attorney, the public defender, and the~~  
846 ~~program administrator, or their designees; and such other~~  
847 ~~persons as the chair deems appropriate. The committee may also~~  
848 ~~include persons representing any other agencies to which~~  
849 ~~children released to the delinquency pretrial intervention~~  
850 ~~program may be referred.~~

851 Section 12. This act shall take effect upon becoming a  
852 law.