

Bill No. CS for SB 184

Barcode 892654

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Villalobos) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

(4) SUBSTANCE ABUSE SERVICES.--

(a) The Legislature recognizes that early referral and comprehensive treatment can help combat substance abuse in families and that treatment is cost-effective.

(b) The Legislature establishes the following goals for the state relating to substance abuse treatment services in the dependency system:

1. To ensure the safety of children.

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

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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 the 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 use of the drug court program model established by s.
21 397.334, and authorize courts to assess parents and children
22 where good cause is shown to identify and address substance
23 abuse problems as the court deems appropriate at every stage
24 of the dependency process. Participation in treatment,
25 including a treatment-based drug court program, may be
26 required by the court following adjudication. Participation in
27 assessment and treatment before adjudication is voluntary,
28 except as provided in s. 39.407(15).

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

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1 operation of specialized support and overlay services for the
2 dependency system, which will be fully implemented and used
3 ~~utilized~~ as resources permit.

4 (f) Participation in the treatment-based drug court
5 program does not divest any public or private agency of its
6 responsibility for a child or adult but is intended to enable
7 these agencies to better meet their needs through shared
8 responsibility and resources.

9 Section 2. Section 39.407, Florida Statutes, is
10 amended to read:

11 39.407 Medical, psychiatric, and psychological
12 examination and treatment of child; physical, ~~or~~ mental, ~~or~~
13 substance abuse examination of a ~~parent~~ ~~or~~ person ~~with~~ ~~or~~
14 requesting custody of child.--

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

27 (2) When the department has performed the medical
28 screening authorized by subsection (1), or when it is
29 otherwise determined by a licensed health care professional
30 that a child who is in an out-of-home placement, but who has
31 not been committed to the department, is in need of medical

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1 treatment, including the need for immunization, consent for
2 medical treatment shall be obtained in the following manner:

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

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

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

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

25
26 In no case shall the department consent to sterilization,
27 abortion, or termination of life support.

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

31 (b) The judge may also order such child to be

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1 | evaluated by a psychiatrist or a psychologist or, if a
 2 | developmental disability is suspected or alleged, by the
 3 | developmental disability diagnostic and evaluation team of the
 4 | department. If it is necessary to place a child in a
 5 | residential facility for such evaluation, the criteria and
 6 | procedure established in s. 394.463(2) or chapter 393 shall be
 7 | used, whichever is applicable.

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

16 | (4) A judge may order a child in an out-of-home
 17 | placement to be treated by a licensed health care professional
 18 | based on evidence that the child should receive treatment.
 19 | The judge may also order such child to receive mental health
 20 | or developmental disabilities services from a psychiatrist,
 21 | psychologist, or other appropriate service provider. Except
 22 | as provided in subsection (5), if it is necessary to place the
 23 | child in a residential facility for such services, the
 24 | procedures and criteria established in s. 394.467 or chapter
 25 | 393 shall be used, whichever is applicable. A child may be
 26 | provided developmental disabilities or mental health services
 27 | in emergency situations, pursuant to the procedures and
 28 | criteria contained in s. 394.463(1) or chapter 393, whichever
 29 | is applicable.

30 | (5) Children who are in the legal custody of the
 31 | department may be placed by the department, without prior

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1 approval of the court, in a residential treatment center
 2 licensed under s. 394.875 or a hospital licensed under chapter
 3 395 for residential mental health treatment only pursuant to
 4 this section or may be placed by the court in accordance with
 5 an order of involuntary examination or involuntary placement
 6 entered pursuant to s. 394.463 or s. 394.467. All children
 7 placed in a residential treatment program under this
 8 subsection must have a guardian ad litem appointed.

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

10 1. "Residential treatment" means placement for
 11 observation, diagnosis, or treatment of an emotional
 12 disturbance in a residential treatment center licensed under
 13 s. 394.875 or a hospital licensed under chapter 395.

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

20 3. "Suitable for residential treatment" or
 21 "suitability" means a determination concerning a child or
 22 adolescent with an emotional disturbance as defined in s.
 23 394.492(5) or a serious emotional disturbance as defined in s.
 24 394.492(6) that each of the following criteria is met:

- 25 a. The child requires residential treatment.
- 26 b. The child is in need of a residential treatment
 27 program and is expected to benefit from mental health
 28 treatment.
- 29 c. An appropriate, less restrictive alternative to
 30 residential treatment is unavailable.

31 (b) Whenever the department believes that a child in

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1 | its legal custody is emotionally disturbed and may need
2 | residential treatment, an examination and suitability
3 | assessment must be conducted by a qualified evaluator who is
4 | appointed by the Agency for Health Care Administration. This
5 | suitability assessment must be completed before the placement
6 | of the child in a residential treatment center for emotionally
7 | disturbed children and adolescents or a hospital. The
8 | qualified evaluator must be a psychiatrist or a psychologist
9 | licensed in Florida who has at least 3 years of experience in
10 | the diagnosis and treatment of serious emotional disturbances
11 | in children and adolescents and who has no actual or perceived
12 | conflict of interest with any inpatient facility or
13 | residential treatment center or program.

14 | (c) Before a child is admitted under this subsection,
15 | the child shall be assessed for suitability for residential
16 | treatment by a qualified evaluator who has conducted a
17 | personal examination and assessment of the child and has made
18 | written findings that:

19 | 1. The child appears to have an emotional disturbance
20 | serious enough to require residential treatment and is
21 | reasonably likely to benefit from the treatment.

22 | 2. The child has been provided with a clinically
23 | appropriate explanation of the nature and purpose of the
24 | treatment.

25 | 3. All available modalities of treatment less
26 | restrictive than residential treatment have been considered,
27 | and a less restrictive alternative that would offer comparable
28 | benefits to the child is unavailable.

29 |

30 | A copy of the written findings of the evaluation and
31 | suitability assessment must be provided to the department and

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1 to the guardian ad litem, who shall have the opportunity to
2 discuss the findings with the evaluator.

3 (d) Immediately upon placing a child in a residential
4 treatment program under this section, the department must
5 notify the guardian ad litem and the court having jurisdiction
6 over the child and must provide the guardian ad litem and the
7 court with a copy of the assessment by the qualified
8 evaluator.

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

26 (f) Within 30 days after admission, the residential
27 treatment program must review the appropriateness and
28 suitability of the child's placement in the program. The
29 residential treatment program must determine whether the child
30 is receiving benefit toward the treatment goals and whether
31 the child could be treated in a less restrictive treatment

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1 program. The residential treatment program shall prepare a
 2 written report of its findings and submit the report to the
 3 guardian ad litem and to the department. The department must
 4 submit the report to the court. The report must include a
 5 discharge plan for the child. The residential treatment
 6 program must continue to evaluate the child's treatment
 7 progress every 30 days thereafter and must include its
 8 findings in a written report submitted to the department. The
 9 department may not reimburse a facility until the facility has
 10 submitted every written report that is due.

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

15 2. The court must conduct a hearing to review the
 16 status of the child's residential treatment plan no later than
 17 3 months after the child's admission to the residential
 18 treatment program. An independent review of the child's
 19 progress toward achieving the goals and objectives of the
 20 treatment plan must be completed by a qualified evaluator and
 21 submitted to the court before its 3-month review.

22 3. For any child in residential treatment at the time
 23 a judicial review is held pursuant to s. 39.701, the child's
 24 continued placement in residential treatment must be a subject
 25 of the judicial review.

26 4. If at any time the court determines that the child
 27 is not suitable for continued residential treatment, the court
 28 shall order the department to place the child in the least
 29 restrictive setting that is best suited to meet his or her
 30 needs.

31 (h) After the initial 3-month review, the court must

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1 | conduct a review of the child's residential treatment plan
2 | every 90 days.

3 | (i) The department must adopt rules for implementing
4 | timeframes for the completion of suitability assessments by
5 | qualified evaluators and a procedure that includes timeframes
6 | for completing the 3-month independent review by the qualified
7 | evaluators of the child's progress toward achieving the goals
8 | and objectives of the treatment plan which review must be
9 | submitted to the court. The Agency for Health Care
10 | Administration must adopt rules for the registration of
11 | qualified evaluators, the procedure for selecting the
12 | evaluators to conduct the reviews required under this section,
13 | and a reasonable, cost-efficient fee schedule for qualified
14 | evaluators.

15 | (6) When a child is in an out-of-home placement, a
16 | licensed health care professional shall be immediately called
17 | if there are indications of physical injury or illness, or the
18 | child shall be taken to the nearest available hospital for
19 | emergency care.

20 | (7) Except as otherwise provided herein, nothing in
21 | this section shall be deemed to eliminate the right of a
22 | parent, legal custodian, or the child to consent to
23 | examination or treatment for the child.

24 | (8) Except as otherwise provided herein, nothing in
25 | this section shall be deemed to alter the provisions of s.
26 | 743.064.

27 | (9) A court shall not be precluded from ordering
28 | services or treatment to be provided to the child by a duly
29 | accredited practitioner who relies solely on spiritual means
30 | for healing in accordance with the tenets and practices of a
31 | church or religious organization, when required by the child's

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1 health and when requested by the child.

2 (10) Nothing in this section shall be construed to
3 authorize the permanent sterilization of the child unless such
4 sterilization is the result of or incidental to medically
5 necessary treatment to protect or preserve the life of the
6 child.

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

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

21 (13) Nothing in this section alters the authority of
22 the department to consent to medical treatment for a dependent
23 child when the child has been committed to the department and
24 the department has become the legal custodian of the child.

25 (14) At any time after the filing of a shelter
26 petition or petition for dependency, when the mental or
27 physical condition, including the blood group, of a parent,
28 caregiver, legal custodian, or other person who has custody or
29 is requesting custody of a child is in controversy, the court
30 may order the person to submit to a physical or mental
31 examination by a qualified professional. The order may be

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1 made only upon good cause shown and under pursuant to notice
2 and procedures as set forth by the Florida Rules of Juvenile
3 Procedure.

4 (15) At any time after a shelter petition or petition
5 for dependency is filed, the court may order a child or a
6 person who has custody or is requesting custody of the child
7 to submit to a substance abuse assessment and evaluation. The
8 assessment or evaluation must be administered by a qualified
9 professional, as defined in s. 397.311. The order may be made
10 only upon good cause shown. This section does not authorize
11 placing the child with a person seeking custody, other than
12 the parent or legal custodian, who requires substance abuse
13 treatment.

14 Section 3. Subsection (9) is added to section 39.507,
15 Florida Statutes, to read:

16 39.507 Adjudicatory hearings; orders of
17 adjudication.--

18 (9) After an adjudication of dependency, or a finding
19 of dependency when adjudication is withheld, the court may
20 order a child or a person who has custody or is requesting
21 custody of the child to submit to a substance abuse assessment
22 or evaluation. The assessment or evaluation must be
23 administered by a qualified professional, as defined in s.
24 397.311. The court may also require the person to participate
25 in and comply with treatment and services identified as
26 necessary, including, when appropriate and available,
27 participation in and compliance with a treatment-based drug
28 court program established under s. 397.334. In addition to
29 supervision by the department, the court, including the
30 treatment-based drug court program, may oversee the progress
31 and compliance with treatment by the child or a person who has

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1 custody or is requesting custody of the child. The court may
 2 impose appropriate available sanctions for noncompliance upon
 3 the child or a person who has custody or is requesting custody
 4 of the child, or make a finding of noncompliance for
 5 consideration when determining whether an alternative
 6 placement of the child is in the child's best interests. Any
 7 order entered under this subsection may be made only upon good
 8 cause shown. This section does not authorize placing the child
 9 with a person seeking custody, other than the parent or legal
 10 custodian, who requires substance abuse treatment.

11 Section 4. Paragraph (b) of subsection (1) of section
 12 39.521, Florida Statutes, is amended to read:

13 39.521 Disposition hearings; powers of disposition.--

14 (1) A disposition hearing shall be conducted by the
 15 court, if the court finds that the facts alleged in the
 16 petition for dependency were proven in the adjudicatory
 17 hearing, or if the parents or legal custodians have consented
 18 to the finding of dependency or admitted the allegations in
 19 the petition, have failed to appear for the arraignment
 20 hearing after proper notice, or have not been located despite
 21 a diligent search having been conducted.

22 (b) When any child is adjudicated by a court to be
 23 dependent, the court having jurisdiction of the child has the
 24 power by order to:

25 1. Require the parent and, when appropriate, the legal
 26 custodian and the child, to participate in treatment and
 27 services identified as necessary.

28 2. Require, if the court deems necessary, the parties
 29 to participate in dependency mediation. The court may require
 30 the child or person who has custody or who is requesting
 31 custody of the child to submit to a substance abuse assessment

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1 or evaluation. The assessment or evaluation must be
2 administered by a qualified professional, as defined in s.
3 397.311. The court may also require the person to participate
4 in and comply with treatment and services identified as
5 necessary, including, when appropriate and available,
6 participation in and compliance with a treatment-based drug
7 court program established under s. 397.334. In addition to
8 supervision by the department the court, including the
9 treatment-based drug court program, may oversee the progress
10 and compliance with treatment by the child or a person who has
11 custody or is requesting custody of the child. The court may
12 impose appropriate available sanctions for noncompliance upon
13 the child or a person who has custody or is requesting custody
14 of the child, or make a finding of noncompliance for
15 consideration when determining whether an alternative
16 placement of the child is in the best interests of the child.
17 Any order entered under this subsection may be made only upon
18 good cause shown. This section does not authorize placing the
19 child with a person seeking custody, other than the parent or
20 legal custodian, who requires substance abuse treatment.

21 3. Require placement of the child either under the
22 protective supervision of an authorized agent of the
23 department in the home of one or both of the child's parents
24 or in the home of a relative of the child or another adult
25 approved by the court, or in the custody of the department.
26 Protective supervision continues until the court terminates it
27 or until the child reaches the age of 18, whichever date is
28 first. Protective supervision shall be terminated by the court
29 whenever the court determines that permanency has been
30 achieved for the child, whether with a parent, another
31 relative, or a legal custodian, and that protective

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1 supervision is no longer needed. The termination of
 2 supervision may be with or without retaining jurisdiction, at
 3 the court's discretion, and shall in either case be considered
 4 a permanency option for the child. The order terminating
 5 supervision by the department shall set forth the powers of
 6 the custodian of the child and shall include the powers
 7 ordinarily granted to a guardian of the person of a minor
 8 unless otherwise specified. Upon the court's termination of
 9 supervision by the department, no further judicial reviews are
 10 required, so long as permanency has been established for the
 11 child.

12 Section 5. Paragraph (d) of subsection (9) of section
 13 39.701, Florida Statutes, is amended to read:

14 39.701 Judicial review.--

15 (9)

16 (d) The court may extend the time limitation of the
 17 case plan, or may modify the terms of the plan, which, in
 18 addition to other modifications, may include a requirement
 19 that the parent, or legal custodian participate in a
 20 treatment-based drug court program established under s.
 21 397.334 based upon information provided by the social service
 22 agency, and the guardian ad litem, if one has been appointed,
 23 the parent or parents, and the foster parents or legal
 24 custodian, and any other competent information on record
 25 demonstrating the need for the amendment. If the court extends
 26 the time limitation of the case plan, the court must make
 27 specific findings concerning the frequency of past
 28 parent-child visitation, if any, and the court may authorize
 29 the expansion or restriction of future visitation.

30 Modifications to the plan must be handled as prescribed in s.
 31 39.601. Any extension of a case plan must comply with the time

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1 requirements and other requirements specified by this chapter.

2 Section 6. Section 397.334, Florida Statutes, to read:

3 397.334 Treatment-based drug court programs.--

4 (1) Each county may fund a treatment-based drug court

5 program under which persons in the justice system assessed

6 with a substance abuse problem will be processed in such a

7 manner as to appropriately address the severity of the

8 identified substance abuse problem through treatment services

9 ~~plans~~ tailored to the individual needs of the participant. It

10 is the intent of the Legislature to encourage the Department

11 of Corrections, the Department of Children and Family

12 Services, the Department of Juvenile Justice, the Department

13 of Health, the Department of Law Enforcement, the Department

14 of Education, and such other agencies, local governments, law

15 enforcement agencies, ~~and~~ other interested public or private

16 sources, and individuals to support the creation and

17 establishment of these problem-solving court programs.

18 Participation in the treatment-based drug court programs does

19 not divest any public or private agency of its responsibility

20 for a child or adult, but enables ~~allows~~ these agencies to

21 better meet their needs through shared responsibility and

22 resources.

23 (2) Entry into a pretrial treatment-based drug court

24 program is voluntary. The court may order an individual to

25 enter into a pretrial treatment-based drug court program only

26 upon written agreement by the individual, which must include

27 an acknowledgement that the individual understands the

28 requirements of the program and the potential sanctions for

29 failing to comply with them.

30 (3)~~(2)~~ The treatment-based drug court programs shall

31 include therapeutic jurisprudence principles and adhere to the

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1 following 10 key components, recognized by the Drug Courts
2 Program Office of the Office of Justice Programs of the United
3 States Department of Justice and adopted by the Florida
4 Supreme Court Treatment-Based Drug Court Steering Committee:

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

7 (b) Using a nonadversarial approach, prosecution and
8 defense counsel promote public safety while protecting
9 participants' due process rights.

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

12 (d) Drug court programs provide access to a continuum
13 of alcohol, drug, and other related treatment and
14 rehabilitation services.

15 (e) Abstinence is monitored by frequent testing for
16 alcohol and other drugs.

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

19 (g) Ongoing judicial interaction with each drug court
20 program participant is essential.

21 (h) Monitoring and evaluation measure the achievement
22 of program goals and gauge program effectiveness.

23 (i) Continuing interdisciplinary education promotes
24 effective drug court program planning, implementation, and
25 operations.

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

29 ~~(4)(3)~~ Treatment-based drug court programs may include
30 pretrial intervention programs as provided in ss. 948.08,
31 948.16, and 985.306, treatment-based drug court programs

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1 authorized in chapter 39, postadjudicatory programs, and the
 2 monitoring of sentenced offenders through a treatment-based
 3 drug court program. While enrolled in a treatment-based drug
 4 court program, the participant is subject to a coordinated
 5 strategy developed by the drug court team under paragraph
 6 (3)(f). Each coordinated strategy must include a protocol of
 7 sanctions that may be imposed on the participant. The protocol
 8 of sanctions must include as available options placement in a
 9 secure licensed clinical or jail-based treatment program or
 10 serving a period of incarceration for noncompliance with the
 11 program rules within the time limits established for contempt
 12 of court. The coordinated strategy must be given to the
 13 participant, in writing, before the participant agrees to
 14 enter into a pretrial treatment-based drug court program.

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

27 (6)(a)(4)(a) The Florida Association of Drug Court
 28 Program Professionals is created. The membership of the
 29 association may consist of treatment-based drug court program
 30 practitioners who comprise the multidisciplinary
 31 treatment-based drug court program team, including, but not

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1 limited to, judges, state attorneys, defense counsel, drug
 2 court ~~program~~ coordinators, probation officers, law
 3 enforcement officers, community representatives members of the
 4 academic community, and treatment professionals. Membership in
 5 the association shall be voluntary.

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

16 ~~(7)(5)~~ If a county chooses to fund a treatment-based
 17 drug court program, the county must secure funding from
 18 sources other than the state for those costs not otherwise
 19 assumed by the state under ~~pursuant to~~ s. 29.004. However,
 20 this does not preclude counties from using treatment and other
 21 service dollars provided through state executive branch
 22 agencies. Counties may provide, by interlocal agreement, for
 23 the collective funding of these programs.

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

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1 treatment-based drug court program coordinator, community
2 representatives, treatment representatives, and any other
3 persons the chair finds are appropriate.

4 Section 7. Paragraphs (b) and (e) of subsection (5) of
5 section 910.035, Florida Statutes, are amended to read:

6 910.035 Transfer from county for plea and sentence.--

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

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

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

26 Section 8. Subsections (6), (7), and (8) of section
27 948.08, Florida Statutes, are amended to read:

28 948.08 Pretrial intervention program.--

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

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1 under chapter 893, prostitution, tampering with evidence,
 2 solicitation for purchase of a controlled substance, or
 3 obtaining a prescription by fraud; who has not been charged
 4 with a crime involving violence, including, but not limited
 5 to, murder, sexual battery, robbery, carjacking, home-invasion
 6 robbery, or any other crime involving violence; and who has
 7 not previously been convicted of a felony nor been admitted to
 8 a felony pretrial program referred to in this section is
 9 eligible for voluntary admission into a pretrial substance
 10 abuse education and treatment intervention program, including
 11 a treatment-based drug court program established under s.
 12 397.334, approved by the chief judge of the circuit, for a
 13 period of not less than 1 year in duration, upon motion of
 14 either party or the court's own motion, except:

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

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

29 (b) While enrolled in a pretrial intervention program
 30 authorized by this section, the participant is subject to a
 31 coordinated strategy developed by a drug court team under s.

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1 397.334(3). The coordinated strategy must include a protocol
 2 of sanctions that may be imposed upon the participant. The
 3 protocol of sanctions must include as available options
 4 placement in a secure licensed clinical or jail-based
 5 treatment program or serving a period of incarceration for
 6 noncompliance with program rules within the time limits
 7 established for contempt of court. The coordinated strategy
 8 must be given to the participant, in writing, before the
 9 participant agrees to enter a pretrial treatment-based drug
 10 court program, or other pretrial intervention program.

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

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

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

26 (d) Any entity, whether public or private, providing a
 27 pretrial substance abuse education and treatment intervention
 28 program under this subsection must contract with the county or
 29 appropriate governmental entity, and the terms of the contract
 30 must include, but need not be limited to, the requirements
 31 established for private entities under s. 948.15(3).

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1 ~~(7) The chief judge in each circuit may appoint an~~
2 ~~advisory committee for the pretrial intervention program~~
3 ~~composed of the chief judge or his or her 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 advisory committee~~
7 ~~may not designate any defendant eligible for a pretrial~~
8 ~~intervention program for any offense that is not listed under~~
9 ~~paragraph (6)(a) without the state attorney's recommendation~~
10 ~~and approval. The committee may also include persons~~
11 ~~representing any other agencies to which persons released to~~
12 ~~the pretrial intervention program may be referred.~~

13 (7)(8) The department may contract for the services
14 and facilities necessary to operate pretrial intervention
15 programs.

16 Section 9. Section 948.16, Florida Statutes, is
17 amended to read:

18 948.16 Misdemeanor pretrial substance abuse education
19 and treatment intervention program.--

20 (1)(a) A person who is charged with a misdemeanor for
21 possession of a controlled substance or drug paraphernalia
22 under chapter 893, and who has not previously been convicted
23 of a felony nor been admitted to a pretrial program, is
24 eligible for voluntary admission into a misdemeanor pretrial
25 substance abuse education and treatment intervention program,
26 including a treatment-based drug court program established
27 under s. 397.334, approved by the chief judge of the circuit,
28 for a period based on the program requirements and the
29 treatment plan for the offender, upon motion of either party
30 or the court's own motion, except, if the state attorney
31 believes the facts and circumstances of the case suggest the

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1 defendant is involved in dealing and selling controlled
 2 substances, the court shall hold a preadmission hearing. If
 3 the state attorney establishes, by a preponderance of the
 4 evidence at the such hearing, that the defendant was involved
 5 in dealing or selling controlled substances, the court shall
 6 deny the defendant's admission into the pretrial intervention
 7 program.

8 (b) While enrolled in a pretrial intervention program
 9 authorized by this section, the participant is subject to a
 10 coordinated strategy developed by a drug court team under s.
 11 397.334(3). The coordinated strategy must include a protocol
 12 of sanctions which may be imposed upon the participant. The
 13 protocol of sanctions must include as available options
 14 placement in a secure licensed clinical or jail-based
 15 treatment program or serving a period of incarceration for
 16 noncompliance with program rules within the time limits
 17 established for contempt of court. The coordinated strategy
 18 must be given to the participant, in writing, before the
 19 participant agrees to enter a pretrial treatment-based drug
 20 court program, or other pretrial intervention program.

21 (2) At the end of the pretrial intervention period,
 22 the court shall consider the recommendation of the treatment
 23 program and the recommendation of the state attorney as to
 24 disposition of the pending charges. The court shall determine,
 25 by written finding, whether the defendant successfully
 26 completed the pretrial intervention program.

27 ~~(a)~~ If the court finds that the defendant has not
 28 successfully completed the pretrial intervention program, the
 29 court may order the person to continue in education and
 30 treatment or return the charges to the criminal docket for
 31 prosecution.

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1 ~~(b)~~ The court shall dismiss the charges upon finding
2 that the defendant has successfully completed the pretrial
3 intervention program.

4 (3) Any public or private entity providing a pretrial
5 substance abuse education and treatment program under this
6 section shall contract with the county or appropriate
7 governmental entity. The terms of the contract shall include,
8 but not be limited to, the requirements established for
9 private entities under s. 948.15(3).

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

12 985.306 Delinquency pretrial intervention program.--

13 (1)~~(a)~~ Notwithstanding any provision of law to the
14 contrary, a child who is charged ~~under chapter 893~~ with a
15 felony of the second or third degree for purchase or
16 possession of a controlled substance, under chapter 893,
17 tampering with evidence, solicitation for purchase of a
18 controlled substance, or obtaining a prescription by fraud,
19 and who has not previously been adjudicated for a felony ~~nor~~
20 ~~been admitted to a delinquency pretrial intervention program~~
21 ~~under this section~~, is eligible for voluntary admission into a
22 delinquency pretrial substance abuse education and treatment
23 intervention program, including a treatment-based drug court
24 program established under s. 397.334 approved by the chief
25 judge or alternative sanctions coordinator of the circuit to
26 the extent that funded programs are available, for a period
27 based on the program requirements and the treatment services
28 that are suitable for the child of not less than 1 year in
29 duration, upon motion of either party or the court's own
30 motion. If the state attorney believes that the facts and
31 circumstances of the case suggest the child's involvement in

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1 the dealing and selling of controlled substances, the court
 2 shall hold a preadmission hearing. If the state attorney
 3 establishes by a preponderance of the evidence at such hearing
 4 that the child was involved in the dealing and selling of
 5 controlled substances, the court shall deny the child's
 6 admission into a delinquency pretrial intervention program.

7 (2) A child is subject to a coordinated strategy
 8 developed by a drug court team under s. 397.334(3) while
 9 enrolled in a delinquency pretrial intervention program
 10 authorized by this section. The coordinated strategy must
 11 include a protocol of sanctions which may be imposed upon the
 12 child. The protocol of sanctions must include as available
 13 options placement in a secure licensed clinical facility or
 14 placement in a secure detention facility under s. 985.216 for
 15 noncompliance with program rules. The coordinated strategy
 16 must be provided to the child in writing before the child
 17 agrees to enter the pretrial treatment-based drug court
 18 program or other pretrial intervention program.

19 (3)(b) At the end of the delinquency pretrial
 20 intervention period, the court shall consider the
 21 recommendation of the state attorney and the program
 22 administrator as to disposition of the pending charges. The
 23 court shall determine, by written finding, whether the child
 24 has successfully completed the delinquency pretrial
 25 intervention program.

26 (c)1. If the court finds that the child has not
 27 successfully completed the delinquency pretrial intervention
 28 program, the court may order the child to continue in an
 29 education, treatment, or urine monitoring program if resources
 30 and funding are available or order that the charges revert to
 31 normal channels for prosecution.

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1 ~~2.~~ The court may dismiss the charges upon a finding
2 that the child has successfully completed the delinquency
3 pretrial intervention program.

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

16 ~~(2) The chief judge in each circuit may appoint an~~
17 ~~advisory committee for the delinquency pretrial intervention~~
18 ~~program composed of the chief judge or designee, who shall~~
19 ~~serve as chair; the state attorney, the public defender, and~~
20 ~~the program administrator, or their designees; and such other~~
21 ~~persons as the chair deems appropriate. The committee may~~
22 ~~also include persons representing any other agencies to which~~
23 ~~children released to the delinquency pretrial intervention~~
24 ~~program may be referred.~~

25 Section 11. This act shall take effect upon becoming a
26 law.

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29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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1 and insert:

2 A bill to be entitled

3 An act relating to drug court programs;

4 amending s. 39.001, F.S.; providing additional

5 legislative purposes and intent with respect to

6 the treatment of substance abuse, including the

7 use of the drug court program model;

8 authorizing the court to require certain

9 persons to undergo treatment following

10 adjudication; providing that the court is not

11 precluded from ordering drug testing; amending

12 s. 39.407, F.S.; authorizing the court to order

13 specified persons to submit to a substance

14 abuse assessment upon a showing of good cause

15 in connection with a shelter petition or

16 petition for dependency; amending ss. 39.507

17 and 39.521, F.S.; authorizing the court to

18 order specified persons to submit to a

19 substance abuse assessment as part of an

20 adjudicatory order or under a disposition

21 hearing; requiring a showing of good cause;

22 authorizing the court to require participation

23 in a treatment-based drug court program;

24 authorizing the court to impose sanctions for

25 noncompliance; amending s. 39.701, F.S.;

26 authorizing the court to extend the time for

27 completing a case plan during judicial review,

28 based upon participation in a treatment-based

29 drug court program; amending s. 397.334, F.S.;

30 revising legislative intent with respect to

31 treatment-based drug court programs to reflect

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1 participation by community support agencies,
2 the Department of Education, and other
3 individuals; including postadjudicatory
4 programs as part of treatment-based drug court
5 programs; providing requirements and sanctions,
6 including clinical placement or incarceration,
7 for the coordinated strategy developed by the
8 drug court team to encourage participant
9 compliance; requiring each judicial circuit to
10 establish a position for a coordinator of the
11 treatment-based drug court program, subject to
12 annual appropriation by the Legislature;
13 authorizing the chief judge of each judicial
14 circuit to appoint an advisory committee for
15 the treatment-based drug court program;
16 providing for membership of the committee;
17 revising provisions with respect to an annual
18 report; amending s. 910.035, F.S.; revising
19 provisions with respect to conditions for the
20 transfer of a case in the drug court treatment
21 program to a county other than that in which
22 the charge arose; amending ss. 948.08, 948.16,
23 and 985.306, F.S., relating to felony,
24 misdemeanor, and delinquency pretrial substance
25 abuse education and treatment intervention
26 programs; providing requirements and sanctions,
27 including clinical placement or incarceration,
28 for the coordinated strategy developed by the
29 drug court team to encourage participant
30 compliance and removing provisions authorizing
31 the appointment of an advisory committee, to

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1 conform to changes made by the act; providing
2 an effective date.
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