

Bill No. SB 184

Barcode 902934

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Children and Families (Lynn) 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 substance abuse is a primary cause of the dramatic rise in cases of child abuse and neglect, immeasurably increases the complexity of cases in the dependency system, severely compromises or destroys the ability of parents to provide a safe and nurturing home for children, and severely confounds the dependency system's ability to protect children. The Legislature also recognizes that early referral and comprehensive treatment can help combat substance abuse in families and that treatment is cost

Bill No. SB 184

Barcode 902934

1 effective. The Legislature further recognizes that
 2 treatment-based drug court program models that integrate
 3 judicial supervision, treatment, accountability, sanctions,
 4 and community support greatly increase the effectiveness of
 5 substance abuse treatment and reduce the number of cases of
 6 child abuse and neglect.

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

10 1. To ensure the safety of children.

11 2. To prevent and remediate the consequences of
 12 substance abuse on families involved in protective supervision
 13 or foster care and reduce substance abuse, including alcohol
 14 abuse, for families who are at risk of being involved in
 15 protective supervision or foster care.

16 3. To expedite permanency for children and reunify
 17 healthy, intact families, when appropriate.

18 4. To support families in recovery.

19 (c) The Legislature finds that children in the care of
 20 the state's dependency system need appropriate health care
 21 services, that the impact of substance abuse on health
 22 indicates the need for health care services to include
 23 substance abuse services to children and parents where
 24 appropriate, and that it is in the state's best interest that
 25 such children be provided the services they need to enable
 26 them to become and remain independent of state care. In order
 27 to provide these services, the state's dependency system must
 28 have the ability to identify and provide appropriate
 29 intervention and treatment for children with personal or
 30 family-related substance abuse problems.

31 (d) It is the intent of the Legislature to encourage

Bill No. SB 184

Barcode 902934

1 the court to support the drug court program model by assessing
2 parents and children to identify and address substance abuse
3 problems as the court deems appropriate at every stage of the
4 dependency process. Participation in treatment, including a
5 treatment-based drug court program, may be required by the
6 court following adjudication. This subsection does not prevent
7 a child's parents and, when appropriate, the legal custodian
8 from voluntarily entering treatment, including a
9 treatment-based drug court program, at the earliest stage of
10 the process. Nothing in this subsection precludes a court from
11 ordering drug testing where substance abuse is suspected to
12 determine the safety of the placement of a child with a
13 caretaker.

14 (e) It is therefore the purpose of the Legislature to
15 provide authority for the state to contract with community
16 substance abuse treatment providers for the development and
17 operation of specialized support and overlay services for the
18 dependency system, which will be fully implemented and used
19 ~~utilized~~ as resources permit.

20 (f) It is the intent of the Legislature to encourage
21 the Department of Children and Family Services, in conjunction
22 with community agencies; treatment-based facilities;
23 facilities dedicated to child welfare, child development, and
24 mental health services; the Department of Health; other
25 similar agencies; local governments; law enforcement agencies;
26 and other interested public or private sources to support the
27 drug court program model. Participation in the treatment-based
28 drug court program does not divest any public or private
29 agency of its responsibility for a child or adult, but enables
30 these agencies to better meet their needs through shared
31 responsibility and resources.

Bill No. SB 184

Barcode 902934

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

5 39.402 Placement in a shelter.--

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

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

15 39.407 Medical, psychiatric, and psychological
16 examination and treatment of child; physical, ~~or~~ mental, or
17 substance abuse examination of parent or person requesting
18 custody of child.--

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

31 (2) When the department has performed the medical

Bill No. SB 184

Barcode 902934

1 screening authorized by subsection (1), or when it is
 2 otherwise determined by a licensed health care professional
 3 that a child who is in an out-of-home placement, but who has
 4 not been committed to the department, is in need of medical
 5 treatment, including the need for immunization, consent for
 6 medical treatment shall be obtained in the following manner:

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

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

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

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

29
 30 In no case shall the department consent to sterilization,
 31 abortion, or termination of life support.

Bill No. SB 184

Barcode 902934

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

4 (b) The judge may also order such child to be
5 evaluated by a psychiatrist or a psychologist or, if a
6 developmental disability is suspected or alleged, by the
7 developmental disability diagnostic and evaluation team of the
8 department. If it is necessary to place a child in a
9 residential facility for such evaluation, the criteria and
10 procedure established in s. 394.463(2) or chapter 393 shall be
11 used, whichever is applicable.

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

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

Bill No. SB 184

Barcode 902934

1 criteria contained in s. 394.463(1) or chapter 393, whichever
2 is applicable.

3 (5) Children who are in the legal custody of the
4 department may be placed by the department, without prior
5 approval of the court, in a residential treatment center
6 licensed under s. 394.875 or a hospital licensed under chapter
7 395 for residential mental health treatment only pursuant to
8 this section or may be placed by the court in accordance with
9 an order of involuntary examination or involuntary placement
10 entered pursuant to s. 394.463 or s. 394.467. All children
11 placed in a residential treatment program under this
12 subsection must have a guardian ad litem appointed.

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

14 1. "Residential treatment" means placement for
15 observation, diagnosis, or treatment of an emotional
16 disturbance in a residential treatment center licensed under
17 s. 394.875 or a hospital licensed under chapter 395.

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

24 3. "Suitable for residential treatment" or
25 "suitability" means a determination concerning a child or
26 adolescent with an emotional disturbance as defined in s.
27 394.492(5) or a serious emotional disturbance as defined in s.
28 394.492(6) that each of the following criteria is met:

- 29 a. The child requires residential treatment.
- 30 b. The child is in need of a residential treatment
31 program and is expected to benefit from mental health

Bill No. SB 184

Barcode 902934

1 treatment.

2 c. An appropriate, less restrictive alternative to
3 residential treatment is unavailable.

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

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

23 1. The child appears to have an emotional disturbance
24 serious enough to require residential treatment and is
25 reasonably likely to benefit from the treatment.

26 2. The child has been provided with a clinically
27 appropriate explanation of the nature and purpose of the
28 treatment.

29 3. All available modalities of treatment less
30 restrictive than residential treatment have been considered,
31 and a less restrictive alternative that would offer comparable

Bill No. SB 184

Barcode 902934

1 | benefits to the child is unavailable.

2 |

3 | A copy of the written findings of the evaluation and
4 | suitability assessment must be provided to the department and
5 | to the guardian ad litem, who shall have the opportunity to
6 | discuss the findings with the evaluator.

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

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

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

Bill No. SB 184

Barcode 902934

1 suitability of the child's placement in the program. The
 2 residential treatment program must determine whether the child
 3 is receiving benefit toward the treatment goals and whether
 4 the child could be treated in a less restrictive treatment
 5 program. The residential treatment program shall prepare a
 6 written report of its findings and submit the report to the
 7 guardian ad litem and to the department. The department must
 8 submit the report to the court. The report must include a
 9 discharge plan for the child. The residential treatment
 10 program must continue to evaluate the child's treatment
 11 progress every 30 days thereafter and must include its
 12 findings in a written report submitted to the department. The
 13 department may not reimburse a facility until the facility has
 14 submitted every written report that is due.

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

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

26 3. For any child in residential treatment at the time
 27 a judicial review is held pursuant to s. 39.701, the child's
 28 continued placement in residential treatment must be a subject
 29 of the judicial review.

30 4. If at any time the court determines that the child
 31 is not suitable for continued residential treatment, the court

Bill No. SB 184

Barcode 902934

1 shall order the department to place the child in the least
2 restrictive setting that is best suited to meet his or her
3 needs.

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

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

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

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

28 (8) Except as otherwise provided herein, nothing in
29 this section shall be deemed to alter the provisions of s.
30 743.064.

31 (9) A court shall not be precluded from ordering

Bill No. SB 184

Barcode 902934

1 services or treatment to be provided to the child by a duly
 2 accredited practitioner who relies solely on spiritual means
 3 for healing in accordance with the tenets and practices of a
 4 church or religious organization, when required by the child's
 5 health and when requested by the child.

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

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

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

25 (13) Nothing in this section alters the authority of
 26 the department to consent to medical treatment for a dependent
 27 child when the child has been committed to the department and
 28 the department has become the legal custodian of the child.

29 (14) At any time after the filing of a shelter
 30 petition or petition for dependency, when the mental or
 31 physical condition, including the blood group, of a parent,

Bill No. SB 184

Barcode 902934

1 caregiver, legal custodian, or other person requesting custody
 2 of a child is in controversy, the court may order the person
 3 to submit to a physical or mental examination by a qualified
 4 professional. The order may be made only upon good cause shown
 5 and pursuant to notice and procedures as set forth by the
 6 Florida Rules of Juvenile Procedure.

7 (15) At any time after a shelter petition or petition
 8 for dependency is filed, the court may order a child or the
 9 child's parent, caregiver, legal custodian, or other person
 10 requesting custody of the child, if it has not already done
 11 so, to submit to a substance abuse assessment and evaluation.
 12 The assessment or evaluation must be administered by a
 13 qualified professional, as defined in s. 397.311. The order
 14 may be made only upon good cause shown.

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

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

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

Bill No. SB 184

Barcode 902934

1 custody of the child and shall impose appropriate available
 2 sanctions for noncompliance upon the child or the child's
 3 parent, legal custodian, caregiver, or other person requesting
 4 custody of the child. Any order entered under this subsection
 5 may be made only upon good cause shown.

6 Section 5. Paragraph (b) of subsection (1) of section
 7 39.521, Florida Statutes, is amended to read:

8 39.521 Disposition hearings; powers of disposition.--

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

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

20 1. Require the parent and, when appropriate, the legal
 21 custodian and the child, to participate in treatment and
 22 services identified as necessary. The court may require a
 23 child or the child's parent, caregiver, legal custodian, or
 24 other person requesting custody of the child to submit to a
 25 substance abuse assessment or evaluation. The assessment or
 26 evaluation must be administered by a qualified professional,
 27 as defined in s. 397.311. The court may also require such
 28 person to participate in and comply with treatment and
 29 services identified as necessary, including participation in
 30 and compliance with a treatment-based drug court program, when
 31 appropriate and if available. The court, including the

Bill No. SB 184

Barcode 902934

1 treatment-based drug court program, shall oversee the progress
 2 and compliance with treatment by the child or the child's
 3 parent, legal custodian, caregiver, or other person requesting
 4 custody of the child and shall impose appropriate available
 5 sanctions for noncompliance upon the child or the child's
 6 parent, legal custodian, caregiver, or other person requesting
 7 custody of the child. Any order entered under this
 8 subparagraph may be made only upon good cause shown.

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

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

Bill No. SB 184

Barcode 902934

1 child.

2 Section 6. Paragraph (d) of subsection (9) of section
3 39.701, Florida Statutes, is amended to read:

4 39.701 Judicial review.--

5 (9)

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

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

25 397.334 Treatment-based drug court programs.--

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

Bill No. SB 184

Barcode 902934

1 is the intent of the Legislature to encourage the Department
 2 of Corrections, the Department of Children and Family
 3 Services, the Department of Juvenile Justice, the Department
 4 of Health, the Department of Law Enforcement, the Department
 5 of Education, and such ~~other~~ agencies, local governments, law
 6 enforcement agencies, ~~and~~ other interested public or private
 7 sources, and individuals to support the creation and
 8 establishment of these problem-solving court programs.

9 Participation in the treatment-based drug court programs does
 10 not divest any public or private agency of its responsibility
 11 for a child or adult, but enables ~~allows~~ these agencies to
 12 better meet their needs through shared responsibility and
 13 resources.

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

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

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

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

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

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

Bill No. SB 184

Barcode 902934

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

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

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

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

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

13 (3) Treatment-based drug court programs may include
14 pretrial intervention programs as provided in ss. 948.08,
15 948.16, and 985.306, postadjudicatory programs, and the
16 monitoring of sentenced offenders through a treatment-based
17 drug court program. Supervision may also be provided for
18 offenders who transfer from jail or a prison-based treatment
19 program into the community. While enrolled in any pretrial
20 intervention program, the participant is subject to a
21 coordinated strategy developed by the drug court team under
22 paragraph (2)(f). Each coordinated strategy must include a
23 protocol of sanctions that may be imposed upon the
24 participant. The protocol of sanctions must include as
25 available options placement in a secure licensed clinical or
26 jail-based treatment program or serving a period of
27 incarceration for noncompliance with program rules within the
28 limits established for contempt of court. The coordinated
29 strategy must be provided in writing to the participant at the
30 time the participant enters into a pretrial drug court
31 program.

Bill No. SB 184

Barcode 902934

1 (4) Contingent upon an annual appropriation by the
2 Legislature, each judicial circuit shall establish, at a
3 minimum, one coordinator position for the treatment-based drug
4 court program within the state courts system to coordinate the
5 responsibilities of the participating agencies and service
6 providers. Each coordinator shall provide direct support to
7 the treatment-based drug court program by providing
8 coordination between the multidisciplinary team and the
9 judiciary, providing case management, monitoring compliance of
10 the participants in the treatment-based drug court program
11 with court requirements, and providing program evaluation and
12 accountability.

13 (5)(4)(a) The Florida Association of Drug Court
14 ~~Program~~ Professionals is created. The membership of the
15 association may consist of treatment-based drug court program
16 practitioners who comprise the multidisciplinary
17 treatment-based drug court program team, including, but not
18 limited to, judges, state attorneys, defense counsel, ~~drug~~
19 ~~court~~ program coordinators, probation officers, law
20 enforcement officers, community representatives, members of
21 the academic community, and treatment professionals.
22 Membership in the association shall be voluntary.

23 (b) The association shall annually elect a chair whose
24 duty is to solicit recommendations from members on issues
25 relating to the expansion, operation, and institutionalization
26 of treatment-based drug court programs. The chair is
27 responsible for providing on or before October 1 of each year
28 the association's recommendations and an annual report to the
29 appropriate Supreme Court ~~Treatment-Based Drug Court Steering~~
30 committee or to the appropriate personnel of the Office of the
31 State Courts Administrator, and shall submit a report each

Bill No. SB 184

Barcode 902934

1 ~~year, on or before October 1, to the steering committee.~~

2 ~~(6)(5)~~ If a county chooses to fund a treatment-based
3 drug court program, the county must secure funding from
4 sources other than the state for those costs not otherwise
5 assumed by the state pursuant to s. 29.004. However, this does
6 not preclude counties from using treatment and other service
7 dollars provided through state executive branch agencies.
8 Counties may provide, by interlocal agreement, for the
9 collective funding of these programs.

10 (7) The chief judge of each judicial circuit may
11 appoint an advisory committee for the treatment-based drug
12 court program. The committee shall be composed of the chief
13 judge, or his or her designee, who shall serve as chair; the
14 judge of the treatment-based drug court program, if not
15 otherwise designated by the chief judge as his or her
16 designee; the state attorney, or his or her designee; the
17 public defender, or his or her designee; the treatment-based
18 drug court program coordinators; community representatives;
19 treatment representatives; and any other persons the chair
20 finds are appropriate.

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

23 910.035 Transfer from county for plea and sentence.--

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

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

Bill No. SB 184

Barcode 902934

1 transfer the case to the county which has accepted the
2 defendant into its drug court program.

3 (e) Upon successful completion of the drug court
4 program, the jurisdiction to which the case has been
5 transferred shall dispose of the case pursuant to s.
6 948.08(6). If the defendant does not complete the drug court
7 program successfully, the jurisdiction to which the case has
8 been transferred shall dispose of the case within the
9 guidelines of the Criminal Punishment Code ~~case shall be~~
10 ~~prosecuted as determined by the state attorneys of the sending~~
11 ~~and receiving counties.~~

12 Section 9. Subsections (6), (7), and (8) of section
13 948.08, Florida Statutes, are amended to read:

14 948.08 Pretrial intervention program.--

15 (6)(a) Notwithstanding any provision of this section,
16 a person who is charged with a felony of the second or third
17 degree for purchase or possession of a controlled substance
18 under chapter 893, prostitution, tampering with evidence,
19 solicitation for purchase of a controlled substance, or
20 obtaining a prescription by fraud; who has not been charged
21 with a crime involving violence, including, but not limited
22 to, murder, sexual battery, robbery, carjacking, home-invasion
23 robbery, or any other crime involving violence; and who has
24 not previously been convicted of a felony nor been admitted to
25 a felony pretrial program referred to in this section is
26 eligible for admission into a pretrial substance abuse
27 education and treatment intervention program approved by the
28 chief judge of the circuit, for a period of not less than 1
29 year in duration, upon motion of either party or the court's
30 own motion, except:

31 1. If a defendant was previously offered admission to

Bill No. SB 184

Barcode 902934

1 a pretrial substance abuse education and treatment
 2 intervention program at any time prior to trial and the
 3 defendant rejected that offer on the record, then the court or
 4 the state attorney may deny the defendant's admission to such
 5 a program.

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

14 **(b) While enrolled in a pretrial intervention program**
 15 **authorized by this section, the participant is subject to a**
 16 **coordinated strategy developed by a drug court team under s.**
 17 **397.334(2). The coordinated strategy must include a protocol**
 18 **of sanctions that may be imposed upon the participant. The**
 19 **protocol of sanctions must include as available options**
 20 **placement in a secure licensed clinical or jail-based**
 21 **treatment program or serving a period of incarceration for**
 22 **noncompliance with program rules within the limits established**
 23 **for contempt of court. The coordinated strategy must be**
 24 **provided in writing to the participant at the time the**
 25 **participant enters into a pretrial drug court program.**

26 **(c)(b)** At the end of the pretrial intervention period,
 27 the court shall consider the recommendation of the
 28 administrator pursuant to subsection (5) and the
 29 recommendation of the state attorney as to disposition of the
 30 pending charges. The court shall determine, by written
 31 finding, whether the defendant has successfully completed the

Bill No. SB 184

Barcode 902934

1 pretrial intervention program.

2 ~~(c)1.~~ If the court finds that the defendant has not
3 successfully completed the pretrial intervention program, the
4 court may order the person to continue in education and
5 treatment, which may include secure licensed clinical or
6 jail-based treatment programs, or order that the charges
7 revert to normal channels for prosecution.

8 ~~2.~~ The court shall dismiss the charges upon a finding
9 that the defendant has successfully completed the pretrial
10 intervention program.

11 (d) Any entity, whether public or private, providing a
12 pretrial substance abuse education and treatment intervention
13 program under this subsection must contract with the county or
14 appropriate governmental entity, and the terms of the contract
15 must include, but need not be limited to, the requirements
16 established for private entities under s. 948.15(3).

17 ~~(7) The chief judge in each circuit may appoint an~~
18 ~~advisory committee for the pretrial intervention program~~
19 ~~composed of the chief judge or his or her designee, who shall~~
20 ~~serve as chair; the state attorney, the public defender, and~~
21 ~~the program administrator, or their designees; and such other~~
22 ~~persons as the chair deems appropriate. The advisory committee~~
23 ~~may not designate any defendant eligible for a pretrial~~
24 ~~intervention program for any offense that is not listed under~~
25 ~~paragraph (6)(a) without the state attorney's recommendation~~
26 ~~and approval. The committee may also include persons~~
27 ~~representing any other agencies to which persons released to~~
28 ~~the pretrial intervention program may be referred.~~

29 ~~(7)(8)~~ The department may contract for the services
30 and facilities necessary to operate pretrial intervention
31 programs.

Bill No. SB 184

Barcode 902934

1 Section 10. Section 948.16, Florida Statutes, is
2 amended to read:

3 948.16 Misdemeanor pretrial substance abuse education
4 and treatment intervention program.--

5 (1)(a) A person who is charged with a misdemeanor for
6 possession of a controlled substance or drug paraphernalia
7 under chapter 893, and who has not previously been convicted
8 of a felony nor been admitted to a pretrial program, is
9 eligible for admission into a misdemeanor pretrial substance
10 abuse education and treatment intervention program approved by
11 the chief judge of the circuit, for a period based on the
12 program requirements and the treatment plan for the offender,
13 upon motion of either party or the court's own motion, except,
14 if the state attorney believes the facts and circumstances of
15 the case suggest the defendant is involved in dealing and
16 selling controlled substances, the court shall hold a
17 preadmission hearing. If the state attorney establishes, by a
18 preponderance of the evidence at such hearing, that the
19 defendant was involved in dealing or selling controlled
20 substances, the court shall deny the defendant's admission
21 into the pretrial intervention program.

22 (b) While enrolled in a pretrial intervention program
23 authorized by this section, the participant is subject to a
24 coordinated strategy developed by a drug court team under s.
25 397.334(2). The coordinated strategy must include a protocol
26 of sanctions that may be imposed upon the participant. The
27 protocol of sanctions must include as available options
28 placement in a secure licensed clinical or jail-based
29 treatment program or serving a period of incarceration for
30 noncompliance with program rules within the limits established
31 for contempt of court. The coordinated strategy must be

Bill No. SB 184

Barcode 902934

1 provided in writing to the participant at the time the
2 participant enters into a pretrial drug court program.

3 (2) At the end of the pretrial intervention period,
4 the court shall consider the recommendation of the treatment
5 program and the recommendation of the state attorney as to
6 disposition of the pending charges. The court shall determine,
7 by written finding, whether the defendant successfully
8 completed the pretrial intervention program.

9 ~~(a)~~ If the court finds that the defendant has not
10 successfully completed the pretrial intervention program, the
11 court may order the person to continue in education and
12 treatment or return the charges to the criminal docket for
13 prosecution.

14 ~~(b)~~ The court shall dismiss the charges upon finding
15 that the defendant has successfully completed the pretrial
16 intervention program.

17 (3) Any public or private entity providing a pretrial
18 substance abuse education and treatment program under this
19 section shall contract with the county or appropriate
20 governmental entity. The terms of the contract shall include,
21 but not be limited to, the requirements established for
22 private entities under s. 948.15(3).

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

25 985.306 Delinquency pretrial intervention program.--

26 (1)~~(a)~~ Notwithstanding any provision of law to the
27 contrary, a child who is charged ~~under chapter 893~~ with a
28 felony of the second or third degree for purchase or
29 possession of a controlled substance under chapter 893;
30 tampering with evidence; solicitation for purchase of a
31 controlled substance; or obtaining a prescription by fraud,

Bill No. SB 184

Barcode 902934

1 and who has not previously been adjudicated for a felony ~~nor~~
2 ~~been admitted to a delinquency pretrial intervention program~~
3 ~~under this section~~, is eligible for admission into a
4 delinquency pretrial substance abuse education and treatment
5 intervention program approved by the chief judge or
6 alternative sanctions coordinator of the circuit to the extent
7 that funded programs are available, for a period based on the
8 program requirements and the treatment services that are
9 suitable for the offender ~~of not less than 1 year in duration~~,
10 upon motion of either party or the court's own motion. If the
11 state attorney believes that the facts and circumstances of
12 the case suggest the child's involvement in the dealing and
13 selling of controlled substances, the court shall hold a
14 preadmission hearing. If the state attorney establishes by a
15 preponderance of the evidence at such hearing that the child
16 was involved in the dealing and selling of controlled
17 substances, the court shall deny the child's admission into a
18 delinquency pretrial intervention program.

19 (2) While enrolled in a delinquency pretrial
20 intervention program authorized by this section, a child is
21 subject to a coordinated strategy developed by a drug court
22 team under s. 397.334(2). The coordinated strategy must
23 include a protocol of sanctions that may be imposed upon the
24 child. The protocol of sanctions must include as available
25 options placement in a secure licensed clinical facility or
26 placement in a secure detention facility under s. 985.216 for
27 noncompliance with program rules. The coordinated strategy
28 must be provided in writing to the child at the time the child
29 enters the pretrial drug court program.

30 (3)(b) At the end of the delinquency pretrial
31 intervention period, the court shall consider the

Bill No. SB 184

Barcode 902934

1 recommendation of the state attorney and the program
2 administrator as to disposition of the pending charges. The
3 court shall determine, by written finding, whether the child
4 has successfully completed the delinquency pretrial
5 intervention program.

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

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

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

27 ~~(2) The chief judge in each circuit may appoint an~~
28 ~~advisory committee for the delinquency pretrial intervention~~
29 ~~program composed of the chief judge or designee, who shall~~
30 ~~serve as chair; the state attorney, the public defender, and~~
31 ~~the program administrator, or their designees; and such other~~

Bill No. SB 184

Barcode 902934

1 ~~persons as the chair deems appropriate. The committee may also~~
 2 ~~include persons representing any other agencies to which~~
 3 ~~children released to the delinquency pretrial intervention~~
 4 ~~program may be referred.~~

5 Section 12. This act shall take effect upon becoming a
 6 law.

7
 8

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

10 And the title is amended as follows:

11 Delete everything before the enacting clause

12

13 and insert:

14 A bill to be entitled
 15 An act relating to drug court programs;
 16 amending s. 39.001, F.S.; providing additional
 17 legislative purposes and intent with respect to
 18 the treatment of substance abuse, including the
 19 use of the drug court program model;
 20 authorizing the court to require certain
 21 persons to undergo treatment following
 22 adjudication; providing that the court is not
 23 precluded from ordering drug testing; amending
 24 ss. 39.402 and 39.407, F.S.; authorizing the
 25 court to order specified persons to submit to a
 26 substance abuse assessment upon a showing of
 27 good cause in connection with a shelter hearing
 28 or petition for dependency; amending ss. 39.507
 29 and 39.521, F.S.; authorizing the court to
 30 order specified persons to submit to a
 31 substance abuse assessment as part of an

Bill No. SB 184

Barcode 902934

1 adjudicatory order or pursuant to a disposition
2 hearing; requiring a showing of good cause;
3 authorizing the court to require participation
4 in a treatment-based drug court program;
5 authorizing the court to impose sanctions for
6 noncompliance; amending s. 39.701, F.S.;
7 authorizing the court to extend the time for
8 completing a case plan during judicial review,
9 based upon participation in a treatment-based
10 drug court program; amending s. 397.334, F.S.;
11 revising legislative intent with respect to
12 treatment-based drug court programs to reflect
13 participation by community support agencies,
14 the Department of Education, and other
15 individuals; including postadjudicatory
16 programs as part of treatment-based drug court
17 programs; providing requirements and sanctions,
18 including clinical placement or incarceration,
19 for the coordinated strategy developed by the
20 drug court team to encourage participant
21 compliance; requiring each judicial circuit to
22 establish a position for a coordinator of the
23 treatment-based drug court program, subject to
24 annual appropriation by the Legislature;
25 authorizing the chief judge of each judicial
26 circuit to appoint an advisory committee for
27 the treatment-based drug court program;
28 providing for membership of the committee;
29 revising provisions with respect to an annual
30 report; amending s. 910.035, F.S.; revising
31 provisions with respect to conditions for the

Bill No. SB 184

Barcode 902934

1 transfer of a case in the drug court treatment
2 program to a county other than that in which
3 the charge arose; amending ss. 948.08, 948.16,
4 and 985.306, F.S., relating to felony,
5 misdemeanor, and delinquency pretrial substance
6 abuse education and treatment intervention
7 programs; providing requirements and sanctions,
8 including clinical placement or incarceration,
9 for the coordinated strategy developed by the
10 drug court team to encourage participant
11 compliance and removing provisions authorizing
12 appointment of an advisory committee, to
13 conform to changes made by the act; providing
14 an effective date.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31