



1 programs as part of treatment-based drug court  
2 programs; requiring each participant enrolled  
3 in a pretrial intervention program to be  
4 subject to a coordinated strategy developed by  
5 a drug court team; directing that each  
6 coordinated strategy include a protocol of  
7 sanctions that may be imposed on the  
8 participant; requiring the protocol of  
9 sanctions to include certain specified  
10 sanctions; directing that the coordinated  
11 strategy be provided to the participant at the  
12 time the participant enters the pretrial drug  
13 court program; requiring each judicial circuit  
14 to establish a position for a coordinator of  
15 the treatment-based drug court program;  
16 revising provisions with respect to an annual  
17 report; authorizing the chief judge of each  
18 judicial circuit to appoint an advisory  
19 committee for the treatment-based drug court  
20 program; providing for membership of the  
21 committee; amending s. 910.035, F.S.; revising  
22 provisions with respect to conditions for the  
23 transfer of a case in the drug court treatment  
24 program to a county other than that in which  
25 the charge arose; amending s. 948.08, F.S.;  
26 revising eligibility requirements for  
27 participation in pretrial intervention  
28 programs; authorizing the court to refer  
29 certain defendants who are assessed with a  
30 substance abuse problem to a pretrial  
31 intervention program with the approval of the

1 state attorney; requiring each participant  
2 enrolled in a pretrial intervention program to  
3 be subject to a coordinated strategy developed  
4 by a drug court team; directing that each  
5 coordinated strategy include a protocol of  
6 sanctions that may be imposed on the  
7 participant; requiring the protocol of  
8 sanctions to include certain specified  
9 sanctions; directing that the coordinated  
10 strategy be provided to the participant at the  
11 time the participant enters the pretrial drug  
12 court program; deleting provisions authorizing  
13 advisory committees for the district pretrial  
14 intervention programs; amending s. 948.16,  
15 F.S.; requiring each participant enrolled in a  
16 pretrial intervention program to be subject to  
17 a coordinated strategy developed by a drug  
18 court team; directing that each coordinated  
19 strategy include a protocol of sanctions that  
20 may be imposed on the participant; requiring  
21 the protocol of sanctions to include certain  
22 specified sanctions; directing that the  
23 coordinated strategy be provided to the  
24 participant at the time the participant enters  
25 the pretrial drug court program; amending s.  
26 985.306, F.S.; revising eligibility  
27 requirements for participation in delinquency  
28 pretrial intervention programs; authorizing the  
29 court to refer certain juveniles who are  
30 assessed as having a substance abuse problem to  
31 a substance abuse education and treatment

1 intervention program; requiring each child  
2 enrolled in a pretrial intervention program to  
3 be subject to a coordinated strategy developed  
4 by a drug court team; directing that each  
5 coordinated strategy include a protocol of  
6 sanctions that may be imposed on the child;  
7 requiring the protocol of sanctions to include  
8 certain specified sanctions; directing that the  
9 coordinated strategy be provided to the child  
10 at the time the child enters the pretrial drug  
11 court program; deleting provisions authorizing  
12 advisory committees for the district  
13 delinquency pretrial intervention program;  
14 providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Subsection (4) of section 39.001, Florida  
19 Statutes, is amended to read:

20 39.001 Purposes and intent; personnel standards and  
21 screening.--

22 (4) SUBSTANCE ABUSE SERVICES.--

23 (a) The Legislature recognizes that substance abuse is  
24 a primary cause of the dramatic rise in cases of child abuse  
25 and neglect, immeasurably increases the complexity of cases in  
26 the dependency system, severely compromises or destroys the  
27 ability of parents to provide a safe and nurturing home for  
28 children, and severely confounds the dependency system's  
29 ability to protect children. The Legislature also recognizes  
30 that early referral and comprehensive treatment can help  
31 combat substance abuse in families and that treatment is cost

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 the ~~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

1           (d) It is the intent of the Legislature to encourage  
2 the court to support the drug court program model. The court,  
3 whenever it deems it appropriate, may assess the parents and  
4 children at any stage of the dependency process in order to  
5 identify and address substance abuse problems. Participation  
6 in treatment, including a treatment-based drug court program,  
7 may be required by the court following adjudication. This  
8 subsection does not prevent a child's parents and, when  
9 appropriate, the legal custodian from voluntarily entering  
10 treatment, including a treatment-based drug court program, at  
11 the earliest stage of the process. This subsection does not  
12 preclude a court from ordering drug testing whenever substance  
13 abuse is suspected in order to determine the safety of the  
14 placement of a child with a caretaker.

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

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

1 these agencies to better meet their needs through shared  
2 responsibility and resources.

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

7 39.402 Placement in a shelter.--

8 (11) At the shelter hearing, the court may order the  
9 child or the child's parent, caregiver, legal custodian, or  
10 other person requesting custody of the child to submit to a  
11 substance abuse assessment or evaluation. The assessment or  
12 evaluation must be administered by a qualified professional,  
13 as defined in s. 397.311. The order may be made only upon good  
14 cause shown and pursuant to the notice and procedures set  
15 forth in the Florida Rules of Juvenile Procedure.

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

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

22 (1) When any child is removed from the home and  
23 maintained in an out-of-home placement, the department may ~~is~~  
24 ~~authorized to~~ have a medical screening performed on the child  
25 without authorization from the court and without consent from  
26 a parent or legal custodian. ~~The~~ ~~Such~~ medical screening must  
27 ~~shall~~ be performed by a licensed health care professional who  
28 ~~and shall be to~~ examine the child for injury, illness, and  
29 communicable diseases and ~~to~~ determine the need for  
30 immunization. The department shall by rule establish the  
31 invasiveness of the medical procedures authorized to be

1 performed under this subsection. ~~In no case does~~ This  
2 subsection does not authorize the department to consent to  
3 medical treatment for these ~~such~~ children.

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

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

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

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

23 (c) If a parent or legal custodian of the child is  
24 available but refuses to consent to the necessary treatment,  
25 including immunization, a court order shall be required unless  
26 the situation meets the definition of an emergency in s.  
27 743.064 or the treatment needed is related to suspected abuse,  
28 abandonment, or neglect of the child by a parent, caregiver,  
29 or legal custodian. In this ~~such~~ case, the department may  
30 ~~shall have the authority to~~ consent to necessary medical  
31



1 treatment. This authority is limited to the time reasonably  
2 necessary to obtain court authorization.

3  
4 ~~In no case shall~~ The department may not consent to  
5 sterilization, abortion, or termination of life support.

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

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

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

25 (4) A judge may order a child in an out-of-home  
26 placement to be treated by a licensed health care professional  
27 based on evidence that the child should receive treatment. The  
28 judge may also order the ~~such~~ child to receive mental health  
29 or developmental disabilities services from a psychiatrist,  
30 psychologist, or other appropriate service provider. Except as  
31 provided in subsection (5), if it is necessary to place the

1 | child in a residential facility for ~~such~~ services, the  
2 | procedures and criteria established in s. 394.467 or chapter  
3 | 393 shall be used, whichever is applicable. A child may be  
4 | provided developmental disabilities or mental health services  
5 | in emergency situations, under ~~pursuant to~~ the procedures and  
6 | criteria contained in s. 394.463(1) or chapter 393, whichever  
7 | is applicable.

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

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

20 |           1. "Residential treatment" means placement for  
21 | observation, diagnosis, or treatment of an emotional  
22 | disturbance in a residential treatment center licensed under  
23 | s. 394.875 or a hospital licensed under chapter 395.

24 |           2. "Least restrictive alternative" means the treatment  
25 | and conditions of treatment that, separately and in  
26 | combination, are no more intrusive or restrictive of freedom  
27 | than reasonably necessary to achieve a substantial therapeutic  
28 | benefit or to protect the child or adolescent or others from  
29 | physical injury.

30 |           3. "Suitable for residential treatment" or  
31 | "suitability" means a determination concerning a child or

1 adolescent with an emotional disturbance as defined in s.  
2 394.492(5) or a serious emotional disturbance as defined in s.  
3 394.492(6) that each of the following criteria is met:

4 a. The child requires residential treatment.

5 b. The child is in need of a residential treatment  
6 program and is expected to benefit from mental health  
7 treatment.

8 c. An appropriate, less restrictive alternative to  
9 residential treatment is unavailable.

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

24 (c) Before a child is admitted under this subsection,  
25 the child shall be assessed for suitability for residential  
26 treatment by a qualified evaluator who has conducted a  
27 personal examination and assessment of the child and has made  
28 written findings that:

29 1. The child appears to have an emotional disturbance  
30 serious enough to require residential treatment and is  
31 reasonably likely to benefit from the treatment.

1           2. The child has been provided with a clinically  
2 appropriate explanation of the nature and purpose of the  
3 treatment.

4           3. All available modalities of treatment less  
5 restrictive than residential treatment have been considered,  
6 and a less restrictive alternative that would offer comparable  
7 benefits to the child is unavailable.

8  
9 A copy of the written findings of the evaluation and  
10 suitability assessment must be provided to the department and  
11 to the guardian ad litem, who shall have the opportunity to  
12 discuss the findings with the evaluator.

13           (d) Immediately upon placing a child in a residential  
14 treatment program under this section, the department must  
15 notify the guardian ad litem and the court having jurisdiction  
16 over the child and must provide the guardian ad litem and the  
17 court with a copy of the assessment by the qualified  
18 evaluator.

19           (e) Within 10 days after the admission of a child to a  
20 residential treatment program, the director of the residential  
21 treatment program or the director's designee must ensure that  
22 an individualized plan of treatment has been prepared by the  
23 program and has been explained to the child, to the  
24 department, and to the guardian ad litem, and submitted to the  
25 department. The child must be involved in the preparation of  
26 the plan to the maximum feasible extent consistent with his or  
27 her ability to understand and participate, and the guardian ad  
28 litem and the child's foster parents must be involved to the  
29 maximum extent consistent with the child's treatment needs.  
30 The plan must include a preliminary plan for residential  
31 treatment and aftercare upon completion of residential

1 treatment. The plan must include specific behavioral and  
2 emotional goals against which the success of the residential  
3 treatment may be measured. A copy of the plan must be provided  
4 to the child, to the guardian ad litem, and to the department.

5 (f) Within 30 days after admission, the residential  
6 treatment program must review the appropriateness and  
7 suitability of the child's placement in the program. The  
8 residential treatment program must determine whether the child  
9 is receiving benefit toward the treatment goals and whether  
10 the child could be treated in a less restrictive treatment  
11 program. The residential treatment program shall prepare a  
12 written report of its findings and submit the report to the  
13 guardian ad litem and to the department. The department must  
14 submit the report to the court. The report must include a  
15 discharge plan for the child. The residential treatment  
16 program must continue to evaluate the child's treatment  
17 progress every 30 days thereafter and must include its  
18 findings in a written report submitted to the department. The  
19 department may not reimburse a facility until the facility has  
20 submitted every written report that is due.

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

25 2. The court must conduct a hearing to review the  
26 status of the child's residential treatment plan no later than  
27 3 months after the child's admission to the residential  
28 treatment program. An independent review of the child's  
29 progress toward achieving the goals and objectives of the  
30 treatment plan must be completed by a qualified evaluator and  
31 submitted to the court before its 3-month review.

1           3. For any child in residential treatment at the time  
2 a judicial review is held under ~~pursuant to~~ s. 39.701, the  
3 child's continued placement in residential treatment must be a  
4 subject of the judicial review.

5           4. If at any time the court determines that the child  
6 is not suitable for continued residential treatment, the court  
7 shall order the department to place the child in the least  
8 restrictive setting that is best suited to meet his or her  
9 needs.

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

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

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

30           (7) Except as otherwise provided herein, ~~nothing in~~  
31 this section does not ~~shall be deemed to~~ eliminate the right

1 of a parent, legal custodian, or the child to consent to  
2 examination or treatment for the child.

3 (8) Except as otherwise provided herein, ~~nothing in~~  
4 this section does not ~~shall be deemed to~~ alter the provisions  
5 of s. 743.064.

6 (9) A court ~~is shall~~ not ~~be~~ precluded from ordering  
7 services or treatment to be provided to the child by a duly  
8 accredited practitioner who relies solely on spiritual means  
9 for healing in accordance with the tenets and practices of a  
10 church or religious organization, when required by the child's  
11 health and when requested by the child.

12 (10) ~~Nothing in~~ This section does not ~~shall be~~  
13 ~~construed to~~ authorize the permanent sterilization of the  
14 child unless the ~~such~~ sterilization is the result of or  
15 incidental to medically necessary treatment to protect or  
16 preserve the life of the child.

17 (11) For the purpose of obtaining an evaluation or  
18 examination, or receiving treatment as authorized under  
19 ~~pursuant to~~ this section, ~~a~~ ~~no~~ child alleged to be or found to  
20 be dependent may not ~~shall~~ be placed in a detention home or  
21 other program used primarily for the care and custody of  
22 children alleged or found to have committed delinquent acts.

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

31

1           (13) ~~Nothing in~~ This section does not alter ~~alters~~ the  
2 authority of the department to consent to medical treatment  
3 for a dependent child when the child has been committed to the  
4 department and the department has become the legal custodian  
5 of the child.

6           (14) At any time after the filing of a shelter  
7 petition or petition for dependency, when the mental or  
8 physical condition, including the blood group, of a parent,  
9 caregiver, legal custodian, or other person requesting custody  
10 of a child is in controversy, the court may order the person  
11 to submit to a physical or mental examination by a qualified  
12 professional. The order may be made only upon good cause shown  
13 and pursuant to notice and procedures as set forth by the  
14 Florida Rules of Juvenile Procedure.

15           (15) At any time after a shelter petition or petition  
16 for dependency is filed, the court may order a child or the  
17 child's parent, caregiver, legal custodian, or other person  
18 requesting custody of the child, if it has not already done  
19 so, to submit to a substance abuse assessment and evaluation.  
20 The assessment or evaluation must be administered by a  
21 qualified professional, as defined in s. 397.311. The order  
22 may be made only upon good cause shown and pursuant to the  
23 notice and procedures set forth in the Florida Rules of  
24 Juvenile Procedure.

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

27           39.507 Adjudicatory hearings; orders of  
28 adjudication.--

29           (9) The court may order a child or the child's parent,  
30 caregiver, legal custodian, or other person requesting custody  
31 of the child, if it has not already done so, to submit to a



1 substance abuse assessment or evaluation. The assessment or  
2 evaluation must be administered by a qualified professional,  
3 as defined in s. 397.311. The court may also require the  
4 person to participate in and comply with treatment and  
5 services identified as necessary, including, when appropriate  
6 and available, participation and compliance with a  
7 treatment-based drug court program. The court, including the  
8 treatment-based drug court program, shall oversee the progress  
9 and compliance with treatment by the child or the child's  
10 parent, legal custodian, caregiver, or other person requesting  
11 custody of the child, and shall impose appropriate available  
12 sanctions for noncompliance upon the child's parent, legal  
13 custodian, caregiver, or other person requesting custody of  
14 the child. Any order entered under this subsection may be made  
15 only upon good cause shown and pursuant to the notice and  
16 procedures set forth in the Florida Rules of Juvenile  
17 Procedure.

18           Section 5. Paragraph (b) of subsection (1) of section  
19 39.521, Florida Statutes, is amended to read:

20           39.521 Disposition hearings; powers of disposition.--

21           (1) A disposition hearing shall be conducted by the  
22 court, if the court finds that the facts alleged in the  
23 petition for dependency were proven in the adjudicatory  
24 hearing, or if the parents or legal custodians have consented  
25 to the finding of dependency or admitted the allegations in  
26 the petition, have failed to appear for the arraignment  
27 hearing after proper notice, or have not been located despite  
28 a diligent search having been conducted.

29           (b) When any child is adjudicated by a court to be  
30 dependent, the court having jurisdiction of the child has the  
31 power by order to:

1           1. Require the parent and, when appropriate, the legal  
2           custodian and the child, to participate in treatment and  
3           services identified as necessary. The court may require a  
4           child or the child's parent, caregiver, legal custodian, or  
5           other person requesting custody of the child, to submit to a  
6           substance abuse assessment or evaluation. The assessment or  
7           evaluation must be administered by a qualified professional,  
8           as defined in s. 397.311. The court may also require the  
9           person to participate in and comply with treatment and  
10          services identified as necessary, including participation and  
11          compliance with a treatment-based drug court program, when  
12          appropriate and if available. The court, including the  
13          treatment-based drug court program, shall oversee the progress  
14          and compliance with treatment by the child or the child's  
15          parent, legal custodian, caregiver, or other person requesting  
16          custody of the child, and shall impose appropriate available  
17          sanctions for noncompliance upon the child or the child's  
18          parent, legal custodian, caregiver, or other person requesting  
19          custody of the child. Any order entered under this paragraph  
20          may be made only upon good cause shown and pursuant to the  
21          notice and procedures set forth in the Florida Rules of  
22          Juvenile Procedure.

23           2. Require, if the court deems necessary, the parties  
24           to participate in dependency mediation.

25           3. Require placement of the child either under the  
26           protective supervision of an authorized agent of the  
27           department in the home of one or both of the child's parents  
28           or in the home of a relative of the child or another adult  
29           approved by the court, or in the custody of the department.  
30           Protective supervision continues until the court terminates it  
31           or until the child reaches the age of 18, whichever date is

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

16 Section 6. Paragraph (d) of subsection (9) of section  
17 39.701, Florida Statutes, is amended to read:

18 39.701 Judicial review.--

19 (9)

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

1 any, and the court may authorize the expansion or restriction  
2 of future visitation. Modifications to the plan must be  
3 handled as prescribed in s. 39.601. Any extension of a case  
4 plan must comply with the time requirements and other  
5 requirements specified by this chapter.

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

8 397.334 Treatment-based drug court programs.--

9 (1) Each county may fund a treatment-based drug court  
10 program under which persons in the justice system assessed  
11 with a substance abuse problem will be processed in such a  
12 manner as to appropriately address the severity of the  
13 identified substance abuse problem through treatment services  
14 ~~plans~~ tailored to the individual needs of the participant. It  
15 is the intent of the Legislature to encourage the Department  
16 of Corrections, the Department of Children and Family  
17 Services, the Department of Juvenile Justice, the Department  
18 of Health, the Department of Law Enforcement, the Department  
19 of Education, ~~and such~~ other state agencies, local  
20 governments, law enforcement agencies, ~~and~~ other interested  
21 public or private sources, and individuals to support the  
22 creation and establishment of these problem-solving court  
23 programs. Participation in the treatment-based drug court  
24 programs does not divest any public or private agency of its  
25 responsibility for a child or adult, but enables ~~allows~~ these  
26 agencies to better meet their needs through shared  
27 responsibility and resources.

28 (2) The treatment-based drug court programs must ~~shall~~  
29 include therapeutic jurisprudence principles and adhere to the  
30 following 10 key components, recognized by the Drug Courts  
31 Program Office of the Office of Justice Programs of the United

1 States Department of Justice and adopted by the Florida  
2 Supreme Court Treatment-Based Drug Court Steering Committee:

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

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

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

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

13 (e) Abstinence is monitored by frequent testing for  
14 alcohol and other drugs.

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

17 (g) Ongoing judicial interaction with each drug court  
18 program participant is essential.

19 (h) Monitoring and evaluation measure the achievement  
20 of program goals and gauge program effectiveness.

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

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

27 (3) Treatment-based drug court programs may include  
28 pretrial intervention programs as provided in ss. 948.08,  
29 948.16, and 985.306, and postadjudicatory programs. While  
30 enrolled in any pretrial intervention program, the participant  
31 is subject to a coordinated strategy developed by the drug

1 court team under paragraph (2)(f). Each coordinated strategy  
2 must include a protocol of sanctions that may be imposed upon  
3 the participant. The protocol of sanctions must include as  
4 available options placement in a secure licensed clinical or  
5 jail-based treatment program or serving a period of  
6 incarceration for noncompliance with program rules within the  
7 limits established for contempt of court. The coordinated  
8 strategy must be provided in writing to the participant at the  
9 time the participant enters into a pretrial drug court  
10 program.

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

23 (5)(4)(a) The Florida Association of Drug Court  
24 Program Professionals is created. The membership of the  
25 association may consist of treatment-based drug court program  
26 practitioners who comprise the multidisciplinary  
27 treatment-based drug court program team, including, but not  
28 limited to, judges, state attorneys, defense counsel, ~~drug~~  
29 ~~court~~ program coordinators, probation officers, law  
30 enforcement officers, community representatives, members of  
31

1 the academic community, and treatment professionals.

2 Membership in the association ~~is shall be~~ voluntary.

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

13 ~~(6)(5)~~ If a county chooses to fund a treatment-based  
14 drug court program, the county must secure funding from  
15 sources other than the state for those costs not otherwise  
16 assumed by the state under ~~pursuant to~~ s. 29.004. However,  
17 this does not preclude counties from using treatment and other  
18 service dollars provided through state executive branch  
19 agencies. Counties may provide, by interlocal agreement, for  
20 the collective funding of these programs.

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

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

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

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

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

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

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

25           948.08 Pretrial intervention program.--

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



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

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

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

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

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

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

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

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

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

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

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

1           Section 10. Subsection (1) of section 948.16, Florida  
2 Statutes, is 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

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

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

5 985.306 Delinquency pretrial intervention program.--

6 (1)(a) Notwithstanding any ~~provision of~~ law to the  
7 contrary, a child who is charged ~~under chapter 893~~ with a  
8 misdemeanor; a felony of the second or third degree for  
9 purchase or possession of a controlled substance under chapter  
10 893; tampering with evidence; solicitation for purchase of a  
11 controlled substance; or obtaining a prescription by fraud,  
12 and who has not previously been adjudicated for a felony ~~nor~~  
13 ~~been admitted to a delinquency pretrial intervention program~~  
14 ~~under this section~~, is eligible for admission into a  
15 delinquency pretrial substance abuse education and treatment  
16 intervention program approved by the chief judge or  
17 alternative sanctions coordinator of the circuit to the extent  
18 that funded programs are available, for a period based on the  
19 program requirements and the treatment services that are  
20 suitable for the offender ~~of not less than 1 year in duration,~~  
21 upon motion of either party or the court's own motion.

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

30 (b) A child who is charged for the first time with a  
31 nonviolent third-degree felony and is assessed with a

1 substance abuse problem, but who has not been charged with a  
2 crime involving violence, including, but not limited to,  
3 murder, sexual battery, robbery, carjacking, home-invasion  
4 robbery, or any other crime involving violence and has not  
5 previously been adjudicated of a felony, is eligible for  
6 admission into a pretrial substance abuse education and  
7 treatment intervention program as set forth in paragraph (a).

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

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

28 (2)(b) At the end of the delinquency pretrial  
29 intervention period, the court shall consider the  
30 recommendation of the state attorney and the program  
31 administrator as to disposition of the pending charges. The

1 court shall determine, by written finding, whether the child  
2 has successfully completed the delinquency pretrial  
3 intervention program.

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

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

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

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

1 ~~children released to the delinquency pretrial intervention~~  
2 ~~program may be referred.~~

3 Section 12. This act shall take effect July 1, 2005.

4  
5 \*\*\*\*\*

6 SENATE SUMMARY

7 Provides additional legislative findings and purposes  
8 with respect to the treatment of substance abuse.  
9 Authorizes a court to require certain persons to undergo  
10 substance abuse treatment following adjudication.  
11 Authorizes a court to order specified persons to submit  
12 to a substance abuse assessment upon a showing of good  
13 cause in connection with a shelter hearing, a petition  
14 for dependency, an adjudicatory order, or a disposition  
15 hearing. Authorizes a court to extend the time for  
16 completing a case plan during judicial review, based upon  
17 participation in a treatment-based drug court program.  
18 Revises legislative intent with respect to  
19 treatment-based drug court programs to reflect  
20 participation by community support agencies, the  
21 Department of Education, and other individuals. Requires  
22 each judicial circuit to establish a position for a  
23 coordinator of the treatment-based drug court program.  
24 Directs the chief judge of each judicial circuit to  
25 appoint an advisory committee for the treatment-based  
26 drug court program. Provides for membership of the  
27 committee. Revises eligibility requirements for  
28 participation in pretrial intervention programs and  
29 delinquency pretrial intervention programs. Authorizes a  
30 court to refer certain defendants and delinquents who are  
31 assessed with a substance abuse problem to a pretrial  
intervention program with the approval of the state  
attorney. Requires each defendant and child enrolled in a  
pretrial intervention program to be subject to a  
coordinated strategy developed by a drug court team.  
Directs that each coordinated strategy include a protocol  
of sanctions that may be imposed. Requires the protocol  
of sanctions to include certain specified sanctions.  
Directs that the coordinated strategy be provided to the  
child or defendant at the time he or she enters the  
pretrial drug court program. (See bill for details.)