

By the Committee on Children and Families; and Senator Lynn

586-1031-05

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

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

1 conform to changes made by the act; providing  
2 an effective date.  
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4 Be It Enacted by the Legislature of the State of Florida:  
5

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

8 39.001 Purposes and intent; personnel standards and  
9 screening.--

10 (4) SUBSTANCE ABUSE SERVICES.--

11 (a) The Legislature recognizes that substance abuse is  
12 a primary cause of the dramatic rise in cases of child abuse  
13 and neglect, immeasurably increases the complexity of cases in  
14 the dependency system, severely compromises or destroys the  
15 ability of parents to provide a safe and nurturing home for  
16 children, and severely confounds the dependency system's  
17 ability to protect children. The Legislature also recognizes  
18 that early referral and comprehensive treatment can help  
19 combat substance abuse in families and that treatment is cost  
20 effective. The Legislature further recognizes that  
21 treatment-based drug court program models that integrate  
22 judicial supervision, treatment, accountability, sanctions,  
23 and community support greatly increase the effectiveness of  
24 substance abuse treatment and reduce the number of cases of  
25 child abuse and neglect.

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

29 1. To ensure the safety of children.

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

1 or foster care and reduce substance abuse, including alcohol  
2 abuse, for families who are at risk of being involved in  
3 protective supervision or foster care.

4 3. To expedite permanency for children and reunify  
5 healthy, intact families, when appropriate.

6 4. To support families in recovery.

7 (c) The Legislature finds that children in the care of  
8 the state's dependency system need appropriate health care  
9 services, that the impact of substance abuse on health  
10 indicates the need for health care services to include  
11 substance abuse services to children and parents where  
12 appropriate, and that it is in the state's best interest that  
13 such children be provided the services they need to enable  
14 them to become and remain independent of state care. In order  
15 to provide these services, the state's dependency system must  
16 have the ability to identify and provide appropriate  
17 intervention and treatment for children with personal or  
18 family-related substance abuse problems.

19 (d) It is the intent of the Legislature to encourage  
20 the court to support the drug court program model by assessing  
21 parents and children to identify and address substance abuse  
22 problems as the court deems appropriate at every stage of the  
23 dependency process. Participation in treatment, including a  
24 treatment-based drug court program, may be required by the  
25 court following adjudication. This subsection does not prevent  
26 a child's parents and, when appropriate, the legal custodian  
27 from voluntarily entering treatment, including a  
28 treatment-based drug court program, at the earliest stage of  
29 the process. Nothing in this subsection precludes a court from  
30 ordering drug testing where substance abuse is suspected to  
31

1 determine the safety of the placement of a child with a  
2 caretaker.

3       (e) It is therefore the purpose of the Legislature to  
4 provide authority for the state to contract with community  
5 substance abuse treatment providers for the development and  
6 operation of specialized support and overlay services for the  
7 dependency system, which will be fully implemented and used  
8 ~~utilized~~ as resources permit.

9       (f) It is the intent of the Legislature to encourage  
10 the Department of Children and Family Services, in conjunction  
11 with community agencies; treatment-based facilities;  
12 facilities dedicated to child welfare, child development, and  
13 mental health services; the Department of Health; other  
14 similar agencies; local governments; law enforcement agencies;  
15 and other interested public or private sources to support the  
16 drug court program model. Participation in the treatment-based  
17 drug court program does not divest any public or private  
18 agency of its responsibility for a child or adult, but enables  
19 these agencies to better meet their needs through shared  
20 responsibility and resources.

21       Section 2. Subsections (11) through (16) of section  
22 39.402, Florida Statutes, are renumbered as subsections (12)  
23 through (17), respectively, and a new subsection (11) is added  
24 to that section to read:

25       39.402 Placement in a shelter.--

26       (11) At the shelter hearing, the court may order the  
27 child or the child's parent, caregiver, legal custodian, or  
28 other person requesting custody of the child to submit to a  
29 substance abuse assessment or evaluation. The assessment or  
30 evaluation must be administered by a qualified professional,

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1 as defined in s. 397.311. The order may be made only upon good  
2 cause shown.

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

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

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

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

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

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

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

10 (c) If a parent or legal custodian of the child is  
11 available but refuses to consent to the necessary treatment,  
12 including immunization, a court order shall be required unless  
13 the situation meets the definition of an emergency in s.  
14 743.064 or the treatment needed is related to suspected abuse,  
15 abandonment, or neglect of the child by a parent, caregiver,  
16 or legal custodian. In such case, the department shall have  
17 the authority to consent to necessary medical treatment. This  
18 authority is limited to the time reasonably necessary to  
19 obtain court authorization.

20  
21 In no case shall the department consent to sterilization,  
22 abortion, or termination of life support.

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

26 (b) The judge may also order such child to be  
27 evaluated by a psychiatrist or a psychologist or, if a  
28 developmental disability is suspected or alleged, by the  
29 developmental disability diagnostic and evaluation team of the  
30 department. If it is necessary to place a child in a  
31 residential facility for such evaluation, the criteria and

1 procedure established in s. 394.463(2) or chapter 393 shall be  
2 used, whichever is applicable.

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

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

25 (5) Children who are in the legal custody of the  
26 department may be placed by the department, without prior  
27 approval of the court, in a residential treatment center  
28 licensed under s. 394.875 or a hospital licensed under chapter  
29 395 for residential mental health treatment only pursuant to  
30 this section or may be placed by the court in accordance with  
31 an order of involuntary examination or involuntary placement



1 entered pursuant to s. 394.463 or s. 394.467. All children  
2 placed in a residential treatment program under this  
3 subsection must have a guardian ad litem appointed.

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

5 1. "Residential treatment" means placement for  
6 observation, diagnosis, or treatment of an emotional  
7 disturbance in a residential treatment center licensed under  
8 s. 394.875 or a hospital licensed under chapter 395.

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

15 3. "Suitable for residential treatment" or  
16 "suitability" means a determination concerning a child or  
17 adolescent with an emotional disturbance as defined in s.  
18 394.492(5) or a serious emotional disturbance as defined in s.  
19 394.492(6) that each of the following criteria is met:

20 a. The child requires residential treatment.

21 b. The child is in need of a residential treatment  
22 program and is expected to benefit from mental health  
23 treatment.

24 c. An appropriate, less restrictive alternative to  
25 residential treatment is unavailable.

26 (b) Whenever the department believes that a child in  
27 its legal custody is emotionally disturbed and may need  
28 residential treatment, an examination and suitability  
29 assessment must be conducted by a qualified evaluator who is  
30 appointed by the Agency for Health Care Administration. This  
31 suitability assessment must be completed before the placement

1 of the child in a residential treatment center for emotionally  
2 disturbed children and adolescents or a hospital. The  
3 qualified evaluator must be a psychiatrist or a psychologist  
4 licensed in Florida who has at least 3 years of experience in  
5 the diagnosis and treatment of serious emotional disturbances  
6 in children and adolescents and who has no actual or perceived  
7 conflict of interest with any inpatient facility or  
8 residential treatment center or program.

9 (c) Before a child is admitted under this subsection,  
10 the child shall be assessed for suitability for residential  
11 treatment by a qualified evaluator who has conducted a  
12 personal examination and assessment of the child and has made  
13 written findings that:

14 1. The child appears to have an emotional disturbance  
15 serious enough to require residential treatment and is  
16 reasonably likely to benefit from the treatment.

17 2. The child has been provided with a clinically  
18 appropriate explanation of the nature and purpose of the  
19 treatment.

20 3. All available modalities of treatment less  
21 restrictive than residential treatment have been considered,  
22 and a less restrictive alternative that would offer comparable  
23 benefits to the child is unavailable.

24  
25 A copy of the written findings of the evaluation and  
26 suitability assessment must be provided to the department and  
27 to the guardian ad litem, who shall have the opportunity to  
28 discuss the findings with the evaluator.

29 (d) Immediately upon placing a child in a residential  
30 treatment program under this section, the department must  
31 notify the guardian ad litem and the court having jurisdiction

1 over the child and must provide the guardian ad litem and the  
2 court with a copy of the assessment by the qualified  
3 evaluator.

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

21 (f) Within 30 days after admission, the residential  
22 treatment program must review the appropriateness and  
23 suitability of the child's placement in the program. The  
24 residential treatment program must determine whether the child  
25 is receiving benefit toward the treatment goals and whether  
26 the child could be treated in a less restrictive treatment  
27 program. The residential treatment program shall prepare a  
28 written report of its findings and submit the report to the  
29 guardian ad litem and to the department. The department must  
30 submit the report to the court. The report must include a  
31 discharge plan for the child. The residential treatment

1 program must continue to evaluate the child's treatment  
2 progress every 30 days thereafter and must include its  
3 findings in a written report submitted to the department. The  
4 department may not reimburse a facility until the facility has  
5 submitted every written report that is due.

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

10 2. The court must conduct a hearing to review the  
11 status of the child's residential treatment plan no later than  
12 3 months after the child's admission to the residential  
13 treatment program. An independent review of the child's  
14 progress toward achieving the goals and objectives of the  
15 treatment plan must be completed by a qualified evaluator and  
16 submitted to the court before its 3-month review.

17 3. For any child in residential treatment at the time  
18 a judicial review is held pursuant to s. 39.701, the child's  
19 continued placement in residential treatment must be a subject  
20 of the judicial review.

21 4. If at any time the court determines that the child  
22 is not suitable for continued residential treatment, the court  
23 shall order the department to place the child in the least  
24 restrictive setting that is best suited to meet his or her  
25 needs.

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

29 (i) The department must adopt rules for implementing  
30 timeframes for the completion of suitability assessments by  
31 qualified evaluators and a procedure that includes timeframes

1 | for completing the 3-month independent review by the qualified  
2 | evaluators of the child's progress toward achieving the goals  
3 | and objectives of the treatment plan which review must be  
4 | submitted to the court. The Agency for Health Care  
5 | Administration must adopt rules for the registration of  
6 | qualified evaluators, the procedure for selecting the  
7 | evaluators to conduct the reviews required under this section,  
8 | and a reasonable, cost-efficient fee schedule for qualified  
9 | evaluators.

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

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

19 |         (8) Except as otherwise provided herein, nothing in  
20 | this section shall be deemed to alter the provisions of s.  
21 | 743.064.

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

28 |         (10) Nothing in this section shall be construed to  
29 | authorize the permanent sterilization of the child unless such  
30 | sterilization is the result of or incidental to medically  
31 |

1 necessary treatment to protect or preserve the life of the  
2 child.

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

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

17 (13) Nothing in this section alters the authority of  
18 the department to consent to medical treatment for a dependent  
19 child when the child has been committed to the department and  
20 the department has become the legal custodian of the child.

21 (14) At any time after the filing of a shelter  
22 petition or petition for dependency, when the mental or  
23 physical condition, including the blood group, of a parent,  
24 caregiver, legal custodian, or other person requesting custody  
25 of a child is in controversy, the court may order the person  
26 to submit to a physical or mental examination by a qualified  
27 professional. The order may be made only upon good cause shown  
28 and pursuant to notice and procedures as set forth by the  
29 Florida Rules of Juvenile Procedure.

30 (15) At any time after a shelter petition or petition  
31 for dependency is filed, the court may order a child or the

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

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

9 39.507 Adjudicatory hearings; orders of  
10 adjudication.--

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

29 Section 5. Paragraph (b) of subsection (1) of section  
30 39.521, Florida Statutes, is amended to read:

31 39.521 Disposition hearings; powers of disposition.--

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

9           (b) When any child is adjudicated by a court to be  
10 dependent, the court having jurisdiction of the child has the  
11 power by order to:

12           1. Require the parent and, when appropriate, the legal  
13 custodian and the child, to participate in treatment and  
14 services identified as necessary. The court may require a  
15 child or the child's parent, caregiver, legal custodian, or  
16 other person requesting custody of the child to submit to a  
17 substance abuse assessment or evaluation. The assessment or  
18 evaluation must be administered by a qualified professional,  
19 as defined in s. 397.311. The court may also require such  
20 person to participate in and comply with treatment and  
21 services identified as necessary, including participation in  
22 and compliance with a treatment-based drug court program, when  
23 appropriate and if available. The court, including the  
24 treatment-based drug court program, shall oversee the progress  
25 and compliance with treatment by the child or the child's  
26 parent, legal custodian, caregiver, or other person requesting  
27 custody of the child and shall impose appropriate available  
28 sanctions for noncompliance upon the child or the child's  
29 parent, legal custodian, caregiver, or other person requesting  
30 custody of the child. Any order entered under this  
31 subparagraph may be made only upon good cause shown.



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

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

25           Section 6. Paragraph (d) of subsection (9) of section  
26 39.701, Florida Statutes, is amended to read:

27           39.701 Judicial review.--

28           (9)

29           (d) The court may extend the time limitation of the  
30 case plan, or may modify the terms of the plan, which, in  
31 addition to other modifications, may include a requirement

1 that the parent, foster parent, or legal custodian participate  
2 in a treatment-based drug court program, based upon  
3 information provided by the social service agency, and the  
4 guardian ad litem, if one has been appointed, the parent or  
5 parents, and the foster parents or legal custodian, and any  
6 other competent information on record demonstrating the need  
7 for the amendment. If the court extends the time limitation of  
8 the case plan, the court must make specific findings  
9 concerning the frequency of past parent-child visitation, if  
10 any, and the court may authorize the expansion or restriction  
11 of future visitation. Modifications to the plan must be  
12 handled as prescribed in s. 39.601. Any extension of a case  
13 plan must comply with the time requirements and other  
14 requirements specified by this chapter.

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

17 397.334 Treatment-based drug court programs.--

18 (1) Each county may fund a treatment-based drug court  
19 program under which persons in the justice system assessed  
20 with a substance abuse problem will be processed in such a  
21 manner as to appropriately address the severity of the  
22 identified substance abuse problem through treatment services  
23 ~~plans~~ tailored to the individual needs of the participant. It  
24 is the intent of the Legislature to encourage the Department  
25 of Corrections, the Department of Children and Family  
26 Services, the Department of Juvenile Justice, the Department  
27 of Health, the Department of Law Enforcement, the Department  
28 of Education, and such ~~other~~ agencies, local governments, law  
29 enforcement agencies, ~~and~~ other interested public or private  
30 sources, and individuals to support the creation and  
31 establishment of these problem-solving court programs.

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

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

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

14 (b) Using a nonadversarial approach, prosecution and  
15 defense counsel promote public safety while protecting  
16 participants' due process rights.

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

19 (d) Drug court programs provide access to a continuum  
20 of alcohol, drug, and other related treatment and  
21 rehabilitation services.

22 (e) Abstinence is monitored by frequent testing for  
23 alcohol and other drugs.

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

26 (g) Ongoing judicial interaction with each drug court  
27 program participant is essential.

28 (h) Monitoring and evaluation measure the achievement  
29 of program goals and gauge program effectiveness.

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1 (i) Continuing interdisciplinary education promotes  
2 effective drug court program planning, implementation, and  
3 operations.

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

7 (3) Treatment-based drug court programs may include  
8 pretrial intervention programs as provided in ss. 948.08,  
9 948.16, and 985.306, postadjudicatory programs, and the  
10 monitoring of sentenced offenders through a treatment-based  
11 drug court program. Supervision may also be provided for  
12 offenders who transfer from jail or a prison-based treatment  
13 program into the community. While enrolled in any pretrial  
14 intervention program, the participant is subject to a  
15 coordinated strategy developed by the drug court team under  
16 paragraph (2)(f). Each coordinated strategy must include a  
17 protocol of sanctions that may be imposed upon the  
18 participant. The protocol of sanctions must include as  
19 available options placement in a secure licensed clinical or  
20 jail-based treatment program or serving a period of  
21 incarceration for noncompliance with program rules within the  
22 limits established for contempt of court. The coordinated  
23 strategy must be provided in writing to the participant at the  
24 time the participant enters into a pretrial drug court  
25 program.

26 (4) Contingent upon an annual appropriation by the  
27 Legislature, each judicial circuit shall establish, at a  
28 minimum, one coordinator position for the treatment-based drug  
29 court program within the state courts system to coordinate the  
30 responsibilities of the participating agencies and service  
31 providers. Each coordinator shall provide direct support to

1 the treatment-based drug court program by providing  
2 coordination between the multidisciplinary team and the  
3 judiciary, providing case management, monitoring compliance of  
4 the participants in the treatment-based drug court program  
5 with court requirements, and providing program evaluation and  
6 accountability.

7       ~~(5)(4)~~(a) The Florida Association of Drug Court  
8 ~~Program~~ Professionals is created. The membership of the  
9 association may consist of treatment-based drug court program  
10 practitioners who comprise the multidisciplinary  
11 treatment-based drug court program team, including, but not  
12 limited to, judges, state attorneys, defense counsel, ~~drug~~  
13 ~~court~~ program coordinators, probation officers, law  
14 enforcement officers, community representatives, members of  
15 the academic community, and treatment professionals.  
16 Membership in the association shall be voluntary.

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

27       ~~(6)(5)~~ If a county chooses to fund a treatment-based  
28 drug court program, the county must secure funding from  
29 sources other than the state for those costs not otherwise  
30 assumed by the state pursuant to s. 29.004. However, this does  
31 not preclude counties from using treatment and other service

1 dollars provided through state executive branch agencies.  
2 Counties may provide, by interlocal agreement, for the  
3 collective funding of these programs.

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

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

17 910.035 Transfer from county for plea and sentence.--

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

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

28 (e) Upon successful completion of the drug court  
29 program, the jurisdiction to which the case has been  
30 transferred shall dispose of the case pursuant to s.  
31 948.08(6). If the defendant does not complete the drug court

1 | program successfully, the jurisdiction to which the case has  
2 | been transferred shall dispose of the case within the  
3 | guidelines of the Criminal Punishment Code ~~case shall be~~  
4 | ~~prosecuted as determined by the state attorneys of the sending~~  
5 | ~~and receiving counties.~~

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

8 |           948.08 Pretrial intervention program.--

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

25 |           1. If a defendant was previously offered admission to  
26 | a pretrial substance abuse education and treatment  
27 | intervention program at any time prior to trial and the  
28 | defendant rejected that offer on the record, then the court or  
29 | the state attorney may deny the defendant's admission to such  
30 | a program.  
31 |

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

9           **(b)** While enrolled in a pretrial intervention program  
10 authorized by this section, the participant is subject to a  
11 coordinated strategy developed by a drug court team under s.  
12 397.334(2). The coordinated strategy must include a protocol  
13 of sanctions that may be imposed upon the participant. The  
14 protocol of sanctions must include as available options  
15 placement in a secure licensed clinical or jail-based  
16 treatment program or serving a period of incarceration for  
17 noncompliance with program rules within the limits established  
18 for contempt of court. The coordinated strategy must be  
19 provided in writing to the participant at the time the  
20 participant enters into a pretrial drug court program.

21           ~~(c)~~~~(b)~~ At the end of the pretrial intervention period,  
22 the court shall consider the recommendation of the  
23 administrator pursuant to subsection (5) and the  
24 recommendation of the state attorney as to disposition of the  
25 pending charges. The court shall determine, by written  
26 finding, whether the defendant has successfully completed the  
27 pretrial intervention program.

28           ~~(c)~~~~1.~~ If the court finds that the defendant has not  
29 successfully completed the pretrial intervention program, the  
30 court may order the person to continue in education and  
31 treatment, which may include secure licensed clinical or



1 jail-based treatment programs, or order that the charges  
2 revert to normal channels for prosecution.

3       ~~2.~~ The court shall dismiss the charges upon a finding  
4 that the defendant has successfully completed the pretrial  
5 intervention program.

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

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

24       ~~(7)(8)~~ The department may contract for the services  
25 and facilities necessary to operate pretrial intervention  
26 programs.

27       Section 10. Section 948.16, Florida Statutes, is  
28 amended to read:

29       948.16 Misdemeanor pretrial substance abuse education  
30 and treatment intervention program.--

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

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

30           (2) At the end of the pretrial intervention period,  
31 the court shall consider the recommendation of the treatment

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

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

10 ~~(b)~~ The court shall dismiss the charges upon finding  
11 that the defendant has successfully completed the pretrial  
12 intervention program.

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

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

21 985.306 Delinquency pretrial intervention program.--

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

1 intervention program approved by the chief judge or  
2 alternative sanctions coordinator of the circuit to the extent  
3 that funded programs are available, for a period based on the  
4 program requirements and the treatment services that are  
5 suitable for the offender ~~of not less than 1 year in duration,~~  
6 upon motion of either party or the court's own motion. If the  
7 state attorney believes that the facts and circumstances of  
8 the case suggest the child's involvement in the dealing and  
9 selling of controlled substances, the court shall hold a  
10 preadmission hearing. If the state attorney establishes by a  
11 preponderance of the evidence at such hearing that the child  
12 was involved in the dealing and selling of controlled  
13 substances, the court shall deny the child's admission into a  
14 delinquency pretrial intervention program.

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

26 (3)(b) At the end of the delinquency pretrial  
27 intervention period, the court shall consider the  
28 recommendation of the state attorney and the program  
29 administrator as to disposition of the pending charges. The  
30 court shall determine, by written finding, whether the child  
31

1 has successfully completed the delinquency pretrial  
2 intervention program.

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

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

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

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

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

3           Section 12. This act shall take effect upon becoming a  
4 law.

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6                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7   COMMITTEE SUBSTITUTE FOR  
8   Senate Bill 184

8

9 Removes the court requirement that an order for substance  
10 abuse assessment or evaluation be issued pursuant to the  
11 notice and procedures set forth in the Rules of Juvenile  
12 Procedure.

11

12 Removes the provisions expanding the eligibility requirements  
13 of adults juvenile delinquents who participate in a pretrial  
14 intervention program

13

14 Reinstates current statutory language authorizing the court or  
15 the state attorney to deny a defendant's admission to a  
16 pretrial intervention program, if the defendant has refused  
17 the program at any time prior to trial.

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16 Provides for the monitoring of sentenced offenders through a  
17 treatment-based drug court program as well as authorizes the  
18 supervision of offenders who transfer from jail or a  
19 prison-based treatment program.

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