

By the Committees on Judiciary; Children and Families; and
Senators Lynn and Wilson

590-2374-05

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 s. 39.407, F.S.; authorizing the court to order
12 specified persons to submit to a substance
13 abuse assessment upon a showing of good cause
14 in connection with a shelter petition or
15 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 under 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 the appointment of an advisory committee, to
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1 conform to changes made by the act; providing
2 an effective date.

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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 early referral and
12 comprehensive treatment can help combat substance abuse in
13 families and that treatment is cost-effective.

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

17 1. To ensure the safety of children.

18 2. To prevent and remediate the consequences of
19 substance abuse on families involved in protective supervision
20 or foster care and reduce substance abuse, including alcohol
21 abuse, for families who are at risk of being involved in
22 protective supervision or foster care.

23 3. To expedite permanency for children and reunify
24 healthy, intact families, when appropriate.

25 4. To support families in recovery.

26 (c) The Legislature finds that children in the care of
27 the state's dependency system need appropriate health care
28 services, that the impact of substance abuse on health
29 indicates the need for health care services to include
30 substance abuse services to children and parents where
31 appropriate, and that it is in the state's best interest that

1 ~~the such~~ children be provided the services they need to enable
2 them to become and remain independent of state care. In order
3 to provide these services, the state's dependency system must
4 have the ability to identify and provide appropriate
5 intervention and treatment for children with personal or
6 family-related substance abuse problems.

7 (d) It is the intent of the Legislature to encourage
8 the use of the drug court program model established by s.
9 397.334, and authorize courts to assess parents and children
10 where good cause is shown to identify and address substance
11 abuse problems as the court deems appropriate at every stage
12 of the dependency process. Participation in treatment,
13 including a treatment-based drug court program, may be
14 required by the court following adjudication. Participation in
15 assessment and treatment before adjudication is voluntary,
16 except as provided in s. 39.407(15).

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

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

28 Section 2. Section 39.407, Florida Statutes, is
29 amended to read:

30 39.407 Medical, psychiatric, and psychological
31 examination and treatment of child; physical, ~~or~~ mental, or

1 substance abuse examination of a ~~parent or~~ person with or
2 requesting custody of child.--

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

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

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

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

25 (b) If a parent or legal custodian of the child is
26 unavailable and his or her whereabouts cannot be reasonably
27 ascertained, and it is after normal working hours so that a
28 court order cannot reasonably be obtained, an authorized agent
29 of the department shall have the authority to consent to
30 necessary medical treatment, including immunization, for the
31 child. The authority of the department to consent to medical

1 treatment in this circumstance shall be limited to the time
2 reasonably necessary to obtain court authorization.

3 (c) If a parent or legal custodian of the child is
4 available but refuses to consent to the necessary treatment,
5 including immunization, a court order shall be required unless
6 the situation meets the definition of an emergency in s.
7 743.064 or the treatment needed is related to suspected abuse,
8 abandonment, or neglect of the child by a parent, caregiver,
9 or legal custodian. In such case, the department shall have
10 the authority to consent to necessary medical treatment. This
11 authority is limited to the time reasonably necessary to
12 obtain court authorization.

13
14 In no case shall the department consent to sterilization,
15 abortion, or termination of life support.

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

19 (b) The judge may also order such child to be
20 evaluated by a psychiatrist or a psychologist or, if a
21 developmental disability is suspected or alleged, by the
22 developmental disability diagnostic and evaluation team of the
23 department. If it is necessary to place a child in a
24 residential facility for such evaluation, the criteria and
25 procedure established in s. 394.463(2) or chapter 393 shall be
26 used, whichever is applicable.

27 (c) The judge may also order such child to be
28 evaluated by a district school board educational needs
29 assessment team. The educational needs assessment provided by
30 the district school board educational needs assessment team
31 shall include, but not be limited to, reports of intelligence

1 and achievement tests, screening for learning disabilities and
2 other handicaps, and screening for the need for alternative
3 education as defined in s. 1001.42.

4 (4) A judge may order a child in an out-of-home
5 placement to be treated by a licensed health care professional
6 based on evidence that the child should receive treatment.

7 The judge may also order such child to receive mental health
8 or developmental disabilities services from a psychiatrist,
9 psychologist, or other appropriate service provider. Except
10 as provided in subsection (5), if it is necessary to place the
11 child in a residential facility for such services, the
12 procedures and criteria established in s. 394.467 or chapter
13 393 shall be used, whichever is applicable. A child may be
14 provided developmental disabilities or mental health services
15 in emergency situations, pursuant to the procedures and
16 criteria contained in s. 394.463(1) or chapter 393, whichever
17 is applicable.

18 (5) Children who are in the legal custody of the
19 department may be placed by the department, without prior
20 approval of the court, in a residential treatment center
21 licensed under s. 394.875 or a hospital licensed under chapter
22 395 for residential mental health treatment only pursuant to
23 this section or may be placed by the court in accordance with
24 an order of involuntary examination or involuntary placement
25 entered pursuant to s. 394.463 or s. 394.467. All children
26 placed in a residential treatment program under this
27 subsection must have a guardian ad litem appointed.

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

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

3 | 2. "Least restrictive alternative" means the treatment
4 | and conditions of treatment that, separately and in
5 | combination, are no more intrusive or restrictive of freedom
6 | than reasonably necessary to achieve a substantial therapeutic
7 | benefit or to protect the child or adolescent or others from
8 | physical injury.

9 | 3. "Suitable for residential treatment" or
10 | "suitability" means a determination concerning a child or
11 | adolescent with an emotional disturbance as defined in s.
12 | 394.492(5) or a serious emotional disturbance as defined in s.
13 | 394.492(6) that each of the following criteria is met:

14 | a. The child requires residential treatment.

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

18 | c. An appropriate, less restrictive alternative to
19 | residential treatment is unavailable.

20 | (b) Whenever the department believes that a child in
21 | its legal custody is emotionally disturbed and may need
22 | residential treatment, an examination and suitability
23 | assessment must be conducted by a qualified evaluator who is
24 | appointed by the Agency for Health Care Administration. This
25 | suitability assessment must be completed before the placement
26 | of the child in a residential treatment center for emotionally
27 | disturbed children and adolescents or a hospital. The
28 | qualified evaluator must be a psychiatrist or a psychologist
29 | licensed in Florida who has at least 3 years of experience in
30 | the diagnosis and treatment of serious emotional disturbances
31 | in children and adolescents and who has no actual or perceived

1 | conflict of interest with any inpatient facility or
2 | residential treatment center or program.

3 | (c) Before a child is admitted under this subsection,
4 | the child shall be assessed for suitability for residential
5 | treatment by a qualified evaluator who has conducted a
6 | personal examination and assessment of the child and has made
7 | written findings that:

8 | 1. The child appears to have an emotional disturbance
9 | serious enough to require residential treatment and is
10 | reasonably likely to benefit from the treatment.

11 | 2. The child has been provided with a clinically
12 | appropriate explanation of the nature and purpose of the
13 | treatment.

14 | 3. All available modalities of treatment less
15 | restrictive than residential treatment have been considered,
16 | and a less restrictive alternative that would offer comparable
17 | benefits to the child is unavailable.

18 |
19 | A copy of the written findings of the evaluation and
20 | suitability assessment must be provided to the department and
21 | to the guardian ad litem, who shall have the opportunity to
22 | discuss the findings with the evaluator.

23 | (d) Immediately upon placing a child in a residential
24 | treatment program under this section, the department must
25 | notify the guardian ad litem and the court having jurisdiction
26 | over the child and must provide the guardian ad litem and the
27 | court with a copy of the assessment by the qualified
28 | evaluator.

29 | (e) Within 10 days after the admission of a child to a
30 | residential treatment program, the director of the residential
31 | treatment program or the director's designee must ensure that

1 an individualized plan of treatment has been prepared by the
2 program and has been explained to the child, to the
3 department, and to the guardian ad litem, and submitted to the
4 department. The child must be involved in the preparation of
5 the plan to the maximum feasible extent consistent with his or
6 her ability to understand and participate, and the guardian ad
7 litem and the child's foster parents must be involved to the
8 maximum extent consistent with the child's treatment needs.
9 The plan must include a preliminary plan for residential
10 treatment and aftercare upon completion of residential
11 treatment. The plan must include specific behavioral and
12 emotional goals against which the success of the residential
13 treatment may be measured. A copy of the plan must be provided
14 to the child, to the guardian ad litem, and to the department.

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

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

5 2. The court must conduct a hearing to review the
6 status of the child's residential treatment plan no later than
7 3 months after the child's admission to the residential
8 treatment program. An independent review of the child's
9 progress toward achieving the goals and objectives of the
10 treatment plan must be completed by a qualified evaluator and
11 submitted to the court before its 3-month review.

12 3. For any child in residential treatment at the time
13 a judicial review is held pursuant to s. 39.701, the child's
14 continued placement in residential treatment must be a subject
15 of the judicial review.

16 4. If at any time the court determines that the child
17 is not suitable for continued residential treatment, the court
18 shall order the department to place the child in the least
19 restrictive setting that is best suited to meet his or her
20 needs.

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

24 (i) The department must adopt rules for implementing
25 timeframes for the completion of suitability assessments by
26 qualified evaluators and a procedure that includes timeframes
27 for completing the 3-month independent review by the qualified
28 evaluators of the child's progress toward achieving the goals
29 and objectives of the treatment plan which review must be
30 submitted to the court. The Agency for Health Care
31 Administration must adopt rules for the registration of

1 qualified evaluators, the procedure for selecting the
2 evaluators to conduct the reviews required under this section,
3 and a reasonable, cost-efficient fee schedule for qualified
4 evaluators.

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

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

14 (8) Except as otherwise provided herein, nothing in
15 this section shall be deemed to alter the provisions of s.
16 743.064.

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

23 (10) Nothing in this section shall be construed to
24 authorize the permanent sterilization of the child unless such
25 sterilization is the result of or incidental to medically
26 necessary treatment to protect or preserve the life of the
27 child.

28 (11) For the purpose of obtaining an evaluation or
29 examination, or receiving treatment as authorized pursuant to
30 this section, no child alleged to be or found to be dependent
31 shall be placed in a detention home or other program used

1 primarily for the care and custody of children alleged or
2 found to have committed delinquent acts.

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

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

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

25 (15) At any time after a shelter petition or petition
26 for dependency is filed, the court may order a child or a
27 person who has custody or is requesting custody of the child
28 to submit to a substance abuse assessment and evaluation. The
29 assessment or evaluation must be administered by a qualified
30 professional, as defined in s. 397.311. The order may be made
31 only upon good cause shown. This section does not authorize

1 placing the child with a person seeking custody, other than
2 the parent or legal custodian, who requires substance abuse
3 treatment.

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

6 39.507 Adjudicatory hearings; orders of
7 adjudication.--

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

1 Section 4. Paragraph (b) of subsection (1) of section
2 39.521, Florida Statutes, is amended to read:

3 39.521 Disposition hearings; powers of disposition.--

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

12 (b) When any child is adjudicated by a court to be
13 dependent, the court having jurisdiction of the child has the
14 power by order to:

15 1. Require the parent and, when appropriate, the legal
16 custodian and the child, to participate in treatment and
17 services identified as necessary.

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

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

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

3 Section 5. Paragraph (d) of subsection (9) of section
4 39.701, Florida Statutes, is amended to read:

5 39.701 Judicial review.--

6 (9)

7 (d) The court may extend the time limitation of the
8 case plan, or may modify the terms of the plan, which, in
9 addition to other modifications, may include a requirement
10 that the parent, or legal custodian participate in a
11 treatment-based drug court program established under s.
12 397.334 based upon information provided by the social service
13 agency, and the guardian ad litem, if one has been appointed,
14 the parent or parents, and the foster parents or legal
15 custodian, and any other competent information on record
16 demonstrating the need for the amendment. If the court extends
17 the time limitation of the case plan, the court must make
18 specific findings concerning the frequency of past
19 parent-child visitation, if any, and the court may authorize
20 the expansion or restriction of future visitation.
21 Modifications to the plan must be handled as prescribed in s.
22 39.601. Any extension of a case plan must comply with the time
23 requirements and other requirements specified by this chapter.

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

26 397.334 Treatment-based drug court programs.--

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

1 ~~plans~~ tailored to the individual needs of the participant. It
2 is the intent of the Legislature to encourage the Department
3 of Corrections, the Department of Children and Family
4 Services, the Department of Juvenile Justice, the Department
5 of Health, the Department of Law Enforcement, the Department
6 of Education, and such other agencies, local governments, law
7 enforcement agencies, ~~and~~ other interested public or private
8 sources, and individuals to support the creation and
9 establishment of these problem-solving court programs.
10 Participation in the treatment-based drug court programs does
11 not divest any public or private agency of its responsibility
12 for a child or adult, but enables ~~allows~~ these agencies to
13 better meet their needs through shared responsibility and
14 resources.

15 (2) Entry into a pretrial treatment-based drug court
16 program is voluntary. The court may order an individual to
17 enter into a pretrial treatment-based drug court program only
18 upon written agreement by the individual, which must include
19 an acknowledgement that the individual understands the
20 requirements of the program and the potential sanctions for
21 failing to comply with them.

22 (3)(2) The treatment-based drug court programs shall
23 include therapeutic jurisprudence principles and adhere to the
24 following 10 key components, recognized by the Drug Courts
25 Program Office of the Office of Justice Programs of the United
26 States Department of Justice and adopted by the Florida
27 Supreme Court Treatment-Based Drug Court Steering Committee:

28 (a) Drug court programs integrate alcohol and other
29 drug treatment services with justice system case processing.
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1 (b) Using a nonadversarial approach, prosecution and
2 defense counsel promote public safety while protecting
3 participants' due process rights.

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

6 (d) Drug court programs provide access to a continuum
7 of alcohol, drug, and other related treatment and
8 rehabilitation services.

9 (e) Abstinence is monitored by frequent testing for
10 alcohol and other drugs.

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

13 (g) Ongoing judicial interaction with each drug court
14 program participant is essential.

15 (h) Monitoring and evaluation measure the achievement
16 of program goals and gauge program effectiveness.

17 (i) Continuing interdisciplinary education promotes
18 effective drug court program planning, implementation, and
19 operations.

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

23 ~~(4)(3)~~ Treatment-based drug court programs may include
24 pretrial intervention programs as provided in ss. 948.08,
25 948.16, and 985.306, treatment-based drug court programs
26 authorized in chapter 39, postadjudicatory programs, and the
27 monitoring of sentenced offenders through a treatment-based
28 drug court program. While enrolled in a treatment-based drug
29 court program, the participant is subject to a coordinated
30 strategy developed by the drug court team under paragraph
31 (3)(f). Each coordinated strategy must include a protocol of

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

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

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

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

11 ~~(7)(5)~~ If a county chooses to fund a treatment-based
12 drug court program, the county must secure funding from
13 sources other than the state for those costs not otherwise
14 assumed by the state under ~~pursuant to~~ s. 29.004. However,
15 this does not preclude counties from using treatment and other
16 service dollars provided through state executive branch
17 agencies. Counties may provide, by interlocal agreement, for
18 the collective funding of these programs.

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

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

1 910.035 Transfer from county for plea and sentence.--

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

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

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

21 Section 8. Subsections (6), (7), and (8) of section
22 948.08, Florida Statutes, are amended to read:

23 948.08 Pretrial intervention program.--

24 (6)(a) Notwithstanding any provision of this section,
25 a person who is charged with a felony of the second or third
26 degree for purchase or possession of a controlled substance
27 under chapter 893, prostitution, tampering with evidence,
28 solicitation for purchase of a controlled substance, or
29 obtaining a prescription by fraud; who has not been charged
30 with a crime involving violence, including, but not limited
31 to, murder, sexual battery, robbery, carjacking, home-invasion

1 robbery, or any other crime involving violence; and who has
2 not previously been convicted of a felony nor been admitted to
3 a felony pretrial program referred to in this section is
4 eligible for voluntary admission into a pretrial substance
5 abuse education and treatment intervention program, including
6 a treatment-based drug court program established under s.
7 397.334, approved by the chief judge of the circuit, for a
8 period of not less than 1 year in duration, upon motion of
9 either party or the court's own motion, except:

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

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

24 **(b) While enrolled in a pretrial intervention program**
25 **authorized by this section, the participant is subject to a**
26 **coordinated strategy developed by a drug court team under s.**
27 **397.334(3). The coordinated strategy must include a protocol**
28 **of sanctions that may be imposed upon the participant. The**
29 **protocol of sanctions must include as available options**
30 **placement in a secure licensed clinical or jail-based**
31 **treatment program or serving a period of incarceration for**

1 noncompliance with program rules within the time limits
2 established for contempt of court. The coordinated strategy
3 must be given to the participant, in writing, before the
4 participant agrees to enter a pretrial treatment-based drug
5 court program, or other pretrial intervention program.

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

13 ~~(c)1.~~ If the court finds that the defendant has not
14 successfully completed the pretrial intervention program, the
15 court may order the person to continue in education and
16 treatment or order that the charges revert to normal channels
17 for prosecution.

18 ~~2.~~ The court shall dismiss the charges upon a finding
19 that the defendant has successfully completed the pretrial
20 intervention program.

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

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

1 ~~persons as the chair deems appropriate. The advisory committee~~
2 ~~may not designate any defendant eligible for a pretrial~~
3 ~~intervention program for any offense that is not listed under~~
4 ~~paragraph (6)(a) without the state attorney's recommendation~~
5 ~~and approval. The committee may also include persons~~
6 ~~representing any other agencies to which persons released to~~
7 ~~the pretrial intervention program may be referred.~~

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

11 Section 9. Section 948.16, Florida Statutes, is
12 amended to read:

13 948.16 Misdemeanor pretrial substance abuse education
14 and treatment intervention program.--

15 (1)(a) A person who is charged with a misdemeanor for
16 possession of a controlled substance or drug paraphernalia
17 under chapter 893, and who has not previously been convicted
18 of a felony nor been admitted to a pretrial program, is
19 eligible for voluntary admission into a misdemeanor pretrial
20 substance abuse education and treatment intervention program,
21 including a treatment-based drug court program established
22 under s. 397.334, approved by the chief judge of the circuit,
23 for a period based on the program requirements and the
24 treatment plan for the offender, upon motion of either party
25 or the court's own motion, except, if the state attorney
26 believes the facts and circumstances of the case suggest the
27 defendant is involved in dealing and selling controlled
28 substances, the court shall hold a preadmission hearing. If
29 the state attorney establishes, by a preponderance of the
30 evidence at the ~~such~~ hearing, that the defendant was involved
31 in dealing or selling controlled substances, the court shall

1 deny the defendant's admission into the pretrial intervention
2 program.

3 **(b) While enrolled in a pretrial intervention program**
4 **authorized by this section, the participant is subject to a**
5 **coordinated strategy developed by a drug court team under s.**
6 **397.334(3). The coordinated strategy must include a protocol**
7 **of sanctions which may be imposed upon the participant. The**
8 **protocol of sanctions must include as available options**
9 **placement in a secure licensed clinical or jail-based**
10 **treatment program or serving a period of incarceration for**
11 **noncompliance with program rules within the time limits**
12 **established for contempt of court. The coordinated strategy**
13 **must be given to the participant, in writing, before the**
14 **participant agrees to enter a pretrial treatment-based drug**
15 **court program, or other pretrial intervention program.**

16 (2) At the end of the pretrial intervention period,
17 the court shall consider the recommendation of the treatment
18 program and the recommendation of the state attorney as to
19 disposition of the pending charges. The court shall determine,
20 by written finding, whether the defendant successfully
21 completed the pretrial intervention program.

22 ~~(a)~~ If the court finds that the defendant has not
23 successfully completed the pretrial intervention program, the
24 court may order the person to continue in education and
25 treatment or return the charges to the criminal docket for
26 prosecution.

27 ~~(b)~~ The court shall dismiss the charges upon finding
28 that the defendant has successfully completed the pretrial
29 intervention program.

30 (3) Any public or private entity providing a pretrial
31 substance abuse education and treatment program under this

1 section shall contract with the county or appropriate
2 governmental entity. The terms of the contract shall include,
3 but not be limited to, the requirements established for
4 private entities under s. 948.15(3).

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

7 985.306 Delinquency pretrial intervention program.--

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

1 controlled substances, the court shall deny the child's
2 admission into a delinquency pretrial intervention program.

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

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

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

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

31

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

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

22 Section 11. This act shall take effect upon becoming a
23 law.

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- 1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/Senate Bill 184
- 4
- 5 -- Specifies that the Legislature rather than the Department
6 of Children and Family Services establishes goals for the
7 state relating to substance abuse treatment services and
8 the dependency system.
- 9 -- Deletes court authorization to order the child or the
10 child's parent, caregiver, legal custodian, or other
11 person requesting custody of the child to submit to a
12 substance abuse assessment or evaluation at the shelter
13 hearing.
- 14 -- Authorizes the court to order post adjudicatory
15 participation in certain substance abuse services only
16 upon good cause shown.
- 17 -- Specifies that participation in substance abuse
18 evaluation and treatment is voluntary prior to
19 adjudication except as provided for under s. 397.334(15),
20 F.S.
- 21 -- Specifies that the provisions of this bill do not
22 authorize placing the child with a person seeking
23 custody, other than the parent or legal custodian, who
24 requires substance abuse treatment.
- 25 -- Authorizes the court, after an adjudication of
26 dependency, or a finding of dependency when adjudication
27 is withheld, to order a child or a person who has custody
28 or is requesting custody of the child to participate in
29 certain substance abuse services.
- 30 -- Moves the provision allowing the court to require
31 specified persons to submit to substance abuse
assessment, participate in specified treatment programs,
oversee compliance with programs, or to impose sanctions
upon good cause shown from s. 39.521(b)(1), F.S., to s.
39.521(b)(2), F.S., addressing dependency mediation.
- Removes court authorization to extend the time limitation
of a case plan requiring the foster parent to participate
in a treatment-based drug court program.
- Deletes authorization for treatment-based drug court
programs to provide supervision for offenders who
transfer from a jail or prison-based treatment program.
- Requires that participation in a pre-trial intervention
program be voluntary and that the participant sign an
agreement indicating his or her understanding of the
program requirements and the possible sanctions that may
be imposed if the individual fails to meet those
requirements.
- Requires that the coordinated strategy be given to the
participant, in writing, before the participant agrees to

1 | enter the pretrial treatment-based drug court program,
2 | rather than at the time the participant enters the
3 | program.
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