

1 A bill to be entitled
2 An act relating to substance abuse services; creating s.
3 397.4161, F.S.; providing for certification of certain
4 substance abuse services employees who provide certain
5 client services; providing a directive to the Division of
6 Statutory Revision; creating s. 397.755, F.S.; directing
7 the Department of Corrections to create a substance abuse
8 diversion program; providing eligibility criteria for the
9 program; requiring judicial approval for entry to the
10 program; requiring notice to the state attorney and the
11 inmate's counsel; providing a time limit for the judge to
12 respond; directing the department to prepare a postrelease
13 treatment plan; requiring the department to notify the
14 judge before releasing the inmate into the community;
15 requiring the inmate to abide by the order of supervision
16 and the rules of the department; directing the department
17 to provide special training to employees working in the
18 program; authorizing the department to develop
19 performance-based contracts to supply services to the
20 program; permitting the department to establish a system
21 of incentives to promote participation in rehabilitative
22 programs; providing that this act does not confer any
23 right to placement in the substance abuse diversion
24 program; directing the department to track recidivism and
25 recommitment of inmates who have participated in the
26 program; requiring a report to the Governor and
27 Legislature; authorizing rulemaking; providing an
28 effective date.

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

Section 1. Section 397.4161, Florida Statutes, is created to read:

397.4161 Substance abuse services; clinical personnel certification.--

(1) Persons employed by licensed service providers who provide clinical services to clients who are substance abuse impaired or at risk of substance abuse impairment shall be certified through a department-recognized certification process as provided in s. 397.321(16). This subsection applies to employees who provide any combination of the following services on a routine basis as part of their duties:

- (a) Screening;
- (b) Psychosocial assessment;
- (c) Treatment planning;
- (d) Referral;
- (e) Services coordination and case management;
- (f) Continuing assessment and treatment plan reviews;
- (g) Counseling; or
- (h) Documenting progress.

(2) Persons providing clinical services who are not certified on the effective date of this act may continue providing such services on the condition that they:

- (a) Provide verification to the licensed services provider within 6 months after the effective date of this act of

56 acceptance into a department-recognized certification process;
 57 and

58 (b) Once accepted into a certification process, provide
 59 verification to the licensed services provider on a monthly
 60 basis of continuous participation in the certification process
 61 until certified.

62 (3) Affected employees may provide clinical services in
 63 accordance with their level of certification.

64 Section 2. The Division of Statutory Revision is directed
 65 to substitute the date on which this act takes effect for the
 66 phrase "the effective date of this act" wherever it occurs in s.
 67 397.4161, Florida Statutes, when preparing that section for
 68 publication in the next edition of the Florida Statutes.

69 Section 3. Section 397.755, Florida Statutes, is created
 70 to read:

71 397.755 Substance abuse diversion program.--

72 (1)(a) The department shall develop and implement a
 73 substance abuse diversion program for inmates. The program shall
 74 provide a mechanism by which an eligible, nonviolent, low-risk
 75 inmate who poses a minimal foreseeable risk to the public, and
 76 who has been identified as being in need of substance abuse
 77 treatment, may be diverted into a substance abuse diversion
 78 program.

79 (b) If an inmate is determined to be eligible for the
 80 substance abuse diversion program, the department shall contact
 81 the judge who must approve the inmate's placement into the
 82 program. The judge must also agree to modify the remainder of
 83 the inmate's sentence to probation, community control, or drug

84 offender probation upon successful completion of the in-prison
85 treatment component.

86 (c) Following completion of the in-prison treatment
87 component, the inmate shall be placed under intensive
88 supervision in the community. While in the community, the inmate
89 shall be subject to special conditions of supervision,
90 including, but not limited to, participation in an aftercare
91 substance abuse program. Whenever possible, the inmate's case
92 shall be transferred to a drug court or reentry drug court, if
93 one is available and operating in the jurisdiction into which
94 the inmate is released.

95 (2) As used in this section, the term "judge" means the
96 inmate's sentencing judge or, if unavailable, a judge designated
97 by the chief judge in the circuit from which the inmate was
98 sentenced.

99 (3) The department's substance abuse diversion program
100 shall consist of a prison-based substance abuse treatment
101 program and a community-based aftercare treatment program.

102 (a) The substance abuse diversion program must be
103 specifically designed to be intensive and may have a work-
104 release component as part of the program. The in-prison
105 component may be operated in secure areas in or adjacent to an
106 adult institution, a community residential center, or a work-
107 release center.

108 (b) An inmate who completes the in-prison treatment
109 component shall have his or her prison sentence modified to
110 probation, community control, or drug offender probation. The
111 inmate shall have special conditions attached to the probation,

112 community control, or drug offender probation requiring the
 113 inmate to participate in an aftercare substance abuse program.

114 (4) Before an inmate may participate in the substance
 115 abuse diversion program, the inmate must:

116 (a) Be determined to be eligible by the department using
 117 the criteria set forth in this section.

118 (b) Consent to participate in both the prison and
 119 community-based components.

120 (c) Have no limitations that would preclude participation
 121 in the rehabilitation efforts of the program.

122 (d) Be approved by the inmate's judge to participate in
 123 the program. If the judge agrees to the inmate's participation,
 124 the judge shall agree to modify the inmate's remaining sentence
 125 upon successful completion of the in-prison treatment component.

126 (5) The department shall determine if an inmate is
 127 eligible for the substance abuse diversion program. An inmate
 128 must be screened at the reception center for program
 129 eligibility. The department shall also continuously screen all
 130 inmates incarcerated in department institutions and facilities
 131 for eligibility to participate in the substance abuse diversion
 132 program. A sentencing court may recommend to the department that
 133 an inmate be considered for admission to the diversion program.

134 (a) When screening for inclusion in the substance abuse
 135 diversion program, the department may consider the inmate's
 136 criminal history, need for substance abuse treatment, general
 137 rehabilitative interests, and potential risk to the public. The
 138 department may also consider the operational needs of the
 139 department and the victim's comments.

140 (b) An inmate is ineligible for consideration for
 141 placement in the program unless all of the following criteria
 142 are met:

- 143 1. Is identified as being in need of substance abuse
 144 treatment.
- 145 2. Is serving a sentence or combined sentence of 10 years
 146 or less.
- 147 3. Agrees to participate in the in-prison treatment
 148 component.
- 149 4. Is minimum or community custody status.
- 150 5. Has at least 18 months remaining in his or her
 151 sentence.
- 152 6. Has no prior conviction, as defined in s. 772.12, or
 153 prior commitment to prison in any jurisdiction and is not
 154 currently serving a commitment to prison for committing or
 155 attempting to commit any of the following offenses:
 - 156 a. Any capital felony.
 - 157 b. Any first degree felony offense.
 - 158 c. Any second or third degree felony offense listed in s.
 159 775.084(1)(c).
 - 160 d. Any second degree felony offense listed in s. 893.13.
 - 161 e. Any offense in another jurisdiction that would be a
 162 felony listed in sub-subparagraphs a.-d. if that offense had
 163 been committed in this state.
- 164 7. Is serving no more than a second commitment to prison.

165 (6)(a) If an inmate meets the criteria for program
 166 admission and space is available, the department shall submit a
 167 written notification to the judge regarding the inmate's

168 eligibility for the substance abuse diversion program. The court
 169 shall approve or disapprove participation in the program.

170 (b) If the judge agrees to the inmate's participation, the
 171 judge shall agree to modify the remainder of the inmate's prison
 172 sentence to probation, community control, or drug offender
 173 probation after the inmate successfully completes the in-prison
 174 treatment component. A modified order must include special
 175 conditions of supervision requiring the inmate to participate in
 176 an aftercare substance abuse program. The order may also include
 177 participation in a drug court or reentry drug court program if
 178 one is operating in the jurisdiction into which the inmate will
 179 be released. If a drug court or reentry drug court is
 180 operational, the judge is encouraged to transfer the inmate's
 181 case to one of those courts. The judge retains the sole
 182 authority to modify the inmate's original sentence.

183 (7)(a) At the time the department submits its written
 184 notification to the judge to place an inmate in the substance
 185 abuse diversion program, the department shall deliver a copy of
 186 the notification to the state attorney and the inmate's counsel.

187 (b) The state attorney may submit comments to the court
 188 with a recommendation regarding the inmate's placement in the
 189 program.

190 (c) The state attorney shall notify the victim, if any,
 191 that the inmate is being considered for placement in a substance
 192 abuse diversion program.

193 (d) The state attorney shall notify the court, the
 194 department, and the inmate's counsel of his or her
 195 recommendation within 14 days after receiving a copy of the

196 department's written notification to place the inmate in the
197 substance abuse diversion program. The state attorney's response
198 must be in writing.

199 (8)(a) The court shall notify the department, the state
200 attorney, and the inmate's counsel in writing of its decision
201 regarding the inmate within 21 days after receipt of the
202 department's notification.

203 (b) Failure of the court to notify the department within
204 21 days shall be deemed to be a denial of the inmate's placement
205 in the substance abuse diversion program and subsequent
206 modification of sentence. An inmate who is not approved for
207 participation in the program shall remain in the prison
208 population as assigned by the department.

209 (9) An eligible inmate who is approved to participate in
210 the substance abuse diversion program, and for whom the court
211 has agreed in writing to modify the inmate's sentence upon
212 successful completion of the in-prison treatment component, may
213 enter the program, contingent upon available program space. An
214 inmate's agreement to participate in the substance abuse
215 diversion program constitutes consent to the special conditions
216 of supervision effective when the inmate is discharged into the
217 community.

218 (10) The portion of the inmate's sentence served prior to
219 entering the diversion program does not count toward program
220 completion.

221 (11) If, after placement in the diversion program, the
222 inmate appears unable to participate due to medical or other
223 reasons, he or she must be examined by qualified medical

224 personnel or qualified nonmedical personnel appropriate for the
 225 inmate's situation, as determined by the department. The
 226 qualified personnel shall consult with the director of the
 227 substance abuse diversion program, and the director shall
 228 determine if the inmate may continue with treatment or if the
 229 inmate must be discharged from the program.

230 (12) Before the inmate completes the in-prison treatment
 231 component, the department shall evaluate the inmate's needs and
 232 develop a postrelease treatment plan that includes substance
 233 abuse aftercare services.

234 (13) When the inmate successfully completes the in-prison
 235 treatment component, the department shall notify the court of
 236 the inmate's successful completion of the program. Thereafter,
 237 the court shall issue an order modifying the inmate's sentence.
 238 The modified order shall convert the remainder of the inmate's
 239 prison sentence to a period of probation, community control, or
 240 drug offender probation, if eligible, with special conditions,
 241 including, but not limited to, participation in substance abuse
 242 treatment and aftercare.

243 (14) If it is available in the jurisdiction into which the
 244 inmate will be released, the court may:

245 (a) Order the inmate to reside in a postrelease
 246 transitional residential halfway house.

247 (b) Transfer the inmate's case to a drug court or reentry
 248 drug court for supervision.

249 (15)(a) The inmate shall comply with all conditions of
 250 supervision imposed by the modified order. Violation of any
 251 condition may result in revocation of supervision by the court

252 and imposition of any sentence authorized under the law. While
 253 on probation, community control, or drug offender probation, the
 254 inmate shall pay the cost of supervision to the state and may
 255 have additional conditions requiring payment of restitution,
 256 court costs, and fines; public service; and compliance with
 257 other special conditions.

258 (b) An inmate in the substance abuse diversion program is
 259 subject to the rules of conduct established by the department
 260 and may have sanctions imposed, including loss of privileges,
 261 restrictions, disciplinary confinement, and the forfeiture of
 262 gain-time or the right to earn gain-time in the future,
 263 alteration of release plans, termination from the substance
 264 abuse diversion program, or other program modifications in
 265 keeping with the nature and gravity of the program violation.
 266 The department may place an inmate in the substance abuse
 267 diversion program in an administrative or protective
 268 confinement, as necessary.

269 (16) The department shall implement the substance abuse
 270 diversion program to the fullest extent feasible within the
 271 terms of this section and available resources.

272 (17) The department shall provide a special training
 273 program for staff members selected to serve in the substance
 274 abuse diversion program.

275 (18) The department may develop and enter into
 276 performance-based contracts with qualified individuals,
 277 agencies, or corporations to supply any or all services provided
 278 in the substance abuse diversion program. However, no contract
 279 shall be entered into or renewed unless the contract offers a

280 substantial savings to the department, as determined by the
281 department.

282 (19) The department may establish a system of incentives
283 within the substance abuse diversion program to promote
284 participation in rehabilitative programs and the orderly
285 operation of institutions and facilities.

286 (20) This section does not create or confer any right to
287 any inmate to placement in the substance abuse diversion program
288 or any right to placement or early release under supervision of
289 any type.

290 (21) The department shall develop a computerized system to
291 track recidivism and recommitment of inmates who have
292 participated in the substance abuse diversion program. The
293 department shall submit an annual report of the results of the
294 collected data to the Governor, the President of the Senate, and
295 the Speaker of the House of Representatives.

296 (22) The department may adopt rules pursuant to ss.
297 120.536(1) and 120.54 to implement this section and to
298 administer the substance abuse diversion program.

299 Section 4. This act shall take effect July 1, 2005.