

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

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. This act may be cited as the "Robert J.
31 Koch Drug Court Intervention Act."

1 Section 2. Subsection (4) of section 39.001, Florida
2 Statutes, is amended to read:

3 39.001 Purposes and intent; personnel standards and
4 screening.--

5 (4) SUBSTANCE ABUSE SERVICES.--

6 (a) The Legislature recognizes that early referral and
7 comprehensive treatment can help combat substance abuse in
8 families and that treatment is cost-effective.

9 (b) The Legislature establishes the following goals
10 for the state related to substance abuse treatment services in
11 the dependency process:

12 1. To ensure the safety of children.

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

18 3. To expedite permanency for children and reunify
19 healthy, intact families, when appropriate.

20 4. To support families in recovery.

21 (c) The Legislature finds that children in the care of
22 the state's dependency system need appropriate health care
23 services, that the impact of substance abuse on health
24 indicates the need for health care services to include
25 substance abuse services to children and parents where
26 appropriate, and that it is in the state's best interest that
27 such children be provided the services they need to enable
28 them to become and remain independent of state care. In order
29 to provide these services, the state's dependency system must
30 have the ability to identify and provide appropriate
31

1 intervention and treatment for children with personal or
2 family-related substance abuse problems.

3 (d) It is the intent of the Legislature to encourage
4 the use of the drug court program model established by s.
5 397.334 and authorize courts to assess children and persons
6 who have custody or are requesting custody of children where
7 good cause is shown to identify and address substance abuse
8 problems as the court deems appropriate at every stage of the
9 dependency process. Participation in treatment, including a
10 treatment-based drug court program, may be required by the
11 court following adjudication. Participation in assessment and
12 treatment prior to adjudication shall be voluntary, except as
13 provided in s. 39.407(16).

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

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

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

27 39.407 Medical, psychiatric, and psychological
28 examination and treatment of child; physical, ~~or~~ mental, or
29 substance abuse examination of ~~parent or~~ person with or
30 requesting child custody ~~of child~~.--
31

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

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

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

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

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

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

11

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

14 (3)(a)1. Except as otherwise provided in subparagraph
15 (b)1. or paragraph (e), before the department provides
16 psychotropic medications to a child in its custody, the
17 prescribing physician shall attempt to obtain express and
18 informed consent, as defined in s. 394.455(9) and as described
19 in s. 394.459(3)(a), from the child's parent or legal
20 guardian. The department must take steps necessary to
21 facilitate the inclusion of the parent in the child's
22 consultation with the physician. However, if the parental
23 rights of the parent have been terminated, the parent's
24 location or identity is unknown or cannot reasonably be
25 ascertained, or the parent declines to give express and
26 informed consent, the department may, after consultation with
27 the prescribing physician, seek court authorization to provide
28 the psychotropic medications to the child. Unless parental
29 rights have been terminated and if it is possible to do so,
30 the department shall continue to involve the parent in the
31 decisionmaking process regarding the provision of psychotropic

1 | medications. If, at any time, a parent whose parental rights
2 | have not been terminated provides express and informed consent
3 | to the provision of a psychotropic medication, the
4 | requirements of this section that the department seek court
5 | authorization do not apply to that medication until such time
6 | as the parent no longer consents.

7 | 2. Any time the department seeks a medical evaluation
8 | to determine the need to initiate or continue a psychotropic
9 | medication for a child, the department must provide to the
10 | evaluating physician all pertinent medical information known
11 | to the department concerning that child.

12 | (b)1. If a child who is removed from the home under s.
13 | 39.401 is receiving prescribed psychotropic medication at the
14 | time of removal and parental authorization to continue
15 | providing the medication cannot be obtained, the department
16 | may take possession of the remaining medication and may
17 | continue to provide the medication as prescribed until the
18 | shelter hearing, if it is determined that the medication is a
19 | current prescription for that child and the medication is in
20 | its original container.

21 | 2. If the department continues to provide the
22 | psychotropic medication to a child when parental authorization
23 | cannot be obtained, the department shall notify the parent or
24 | legal guardian as soon as possible that the medication is
25 | being provided to the child as provided in subparagraph 1. The
26 | child's official departmental record must include the reason
27 | parental authorization was not initially obtained and an
28 | explanation of why the medication is necessary for the child's
29 | well-being.

30 | 3. If the department is advised by a physician
31 | licensed under chapter 458 or chapter 459 that the child

1 should continue the psychotropic medication and parental
2 authorization has not been obtained, the department shall
3 request court authorization at the shelter hearing to continue
4 to provide the psychotropic medication and shall provide to
5 the court any information in its possession in support of the
6 request. Any authorization granted at the shelter hearing may
7 extend only until the arraignment hearing on the petition for
8 adjudication of dependency or 28 days following the date of
9 removal, whichever occurs sooner.

10 4. Before filing the dependency petition, the
11 department shall ensure that the child is evaluated by a
12 physician licensed under chapter 458 or chapter 459 to
13 determine whether it is appropriate to continue the
14 psychotropic medication. If, as a result of the evaluation,
15 the department seeks court authorization to continue the
16 psychotropic medication, a motion for such continued
17 authorization shall be filed at the same time as the
18 dependency petition, within 21 days after the shelter hearing.

19 (c) Except as provided in paragraphs (b) and (e), the
20 department must file a motion seeking the court's
21 authorization to initially provide or continue to provide
22 psychotropic medication to a child in its legal custody. The
23 motion must be supported by a written report prepared by the
24 department which describes the efforts made to enable the
25 prescribing physician to obtain express and informed consent
26 for providing the medication to the child and other treatments
27 considered or recommended for the child. In addition, the
28 motion must be supported by the prescribing physician's signed
29 medical report providing:

30 1. The name of the child, the name and range of the
31 dosage of the psychotropic medication, and that there is a

1 need to prescribe psychotropic medication to the child based
2 upon a diagnosed condition for which such medication is being
3 prescribed.

4 2. A statement indicating that the physician has
5 reviewed all medical information concerning the child which
6 has been provided.

7 3. A statement indicating that the psychotropic
8 medication, at its prescribed dosage, is appropriate for
9 treating the child's diagnosed medical condition, as well as
10 the behaviors and symptoms the medication, at its prescribed
11 dosage, is expected to address.

12 4. An explanation of the nature and purpose of the
13 treatment; the recognized side effects, risks, and
14 contraindications of the medication; drug-interaction
15 precautions; the possible effects of stopping the medication;
16 and how the treatment will be monitored, followed by a
17 statement indicating that this explanation was provided to the
18 child if age appropriate and to the child's caregiver.

19 5. Documentation addressing whether the psychotropic
20 medication will replace or supplement any other currently
21 prescribed medications or treatments; the length of time the
22 child is expected to be taking the medication; and any
23 additional medical, mental health, behavioral, counseling, or
24 other services that the prescribing physician recommends.

25 (d)1. The department must notify all parties of the
26 proposed action taken under paragraph (c) in writing or by
27 whatever other method best ensures that all parties receive
28 notification of the proposed action within 48 hours after the
29 motion is filed. If any party objects to the department's
30 motion, that party shall file the objection within 2 working
31 days after being notified of the department's motion. If any

1 party files an objection to the authorization of the proposed
2 psychotropic medication, the court shall hold a hearing as
3 soon as possible before authorizing the department to
4 initially provide or to continue providing psychotropic
5 medication to a child in the legal custody of the department.
6 At such hearing and notwithstanding s. 90.803, the medical
7 report described in paragraph (c) is admissible in evidence.
8 The prescribing physician need not attend the hearing or
9 testify unless the court specifically orders such attendance
10 or testimony, or a party subpoenas the physician to attend the
11 hearing or provide testimony. If, after considering any
12 testimony received, the court finds that the department's
13 motion and the physician's medical report meet the
14 requirements of this subsection and that it is in the child's
15 best interests, the court may order that the department
16 provide or continue to provide the psychotropic medication to
17 the child without additional testimony or evidence. At any
18 hearing held under this paragraph, the court shall further
19 inquire of the department as to whether additional medical,
20 mental health, behavioral, counseling, or other services are
21 being provided to the child by the department which the
22 prescribing physician considers to be necessary or beneficial
23 in treating the child's medical condition and which the
24 physician recommends or expects to provide to the child in
25 concert with the medication. The court may order additional
26 medical consultation, including consultation with the
27 MedConsult line at the University of Florida, if available, or
28 require the department to obtain a second opinion within a
29 reasonable timeframe as established by the court, not to
30 exceed 21 calendar days, after such order based upon
31 consideration of the best interests of the child. The

1 department must make a referral for an appointment for a
2 second opinion with a physician within 1 working day. The
3 court may not order the discontinuation of prescribed
4 psychotropic medication if such order is contrary to the
5 decision of the prescribing physician unless the court first
6 obtains an opinion from a licensed psychiatrist, if available,
7 or, if not available, a physician licensed under chapter 458
8 or chapter 459, stating that more likely than not,
9 discontinuing the medication would not cause significant harm
10 to the child. If, however, the prescribing psychiatrist
11 specializes in mental health care for children and
12 adolescents, the court may not order the discontinuation of
13 prescribed psychotropic medication unless the required opinion
14 is also from a psychiatrist who specializes in mental health
15 care for children and adolescents. The court may also order
16 the discontinuation of prescribed psychotropic medication if a
17 child's treating physician, licensed under chapter 458 or
18 chapter 459, states that continuing the prescribed
19 psychotropic medication would cause significant harm to the
20 child due to a diagnosed nonpsychiatric medical condition.

21 2. The burden of proof at any hearing held under this
22 paragraph shall be by a preponderance of the evidence.

23 (e)1. If the child's prescribing physician certifies
24 in the signed medical report required in paragraph (c) that
25 delay in providing a prescribed psychotropic medication would
26 more likely than not cause significant harm to the child, the
27 medication may be provided in advance of the issuance of a
28 court order. In such event, the medical report must provide
29 the specific reasons why the child may experience significant
30 harm and the nature and the extent of the potential harm. The
31 department must submit a motion seeking continuation of the

1 medication and the physician's medical report to the court,
2 the child's guardian ad litem, and all other parties within 3
3 working days after the department commences providing the
4 medication to the child. The department shall seek the order
5 at the next regularly scheduled court hearing required under
6 this chapter, or within 30 days after the date of the
7 prescription, whichever occurs sooner. If any party objects to
8 the department's motion, the court shall hold a hearing within
9 7 days.

10 2. Psychotropic medications may be administered in
11 advance of a court order in hospitals, crisis stabilization
12 units, and in statewide inpatient psychiatric programs. Within
13 3 working days after the medication is begun, the department
14 must seek court authorization as described in paragraph (c).

15 (f)1. The department shall fully inform the court of
16 the child's medical and behavioral status as part of the
17 social services report prepared for each judicial review
18 hearing held for a child for whom psychotropic medication has
19 been prescribed or provided under this subsection. As a part
20 of the information provided to the court, the department shall
21 furnish copies of all pertinent medical records concerning the
22 child which have been generated since the previous hearing. On
23 its own motion or on good cause shown by any party, including
24 any guardian ad litem, attorney, or attorney ad litem who has
25 been appointed to represent the child or the child's
26 interests, the court may review the status more frequently
27 than required in this subsection.

28 2. The court may, in the best interests of the child,
29 order the department to obtain a medical opinion addressing
30 whether the continued use of the medication under the
31 circumstances is safe and medically appropriate.

1 (g) The department shall adopt rules to ensure that
2 children receive timely access to clinically appropriate
3 psychotropic medications. These rules must include, but need
4 not be limited to, the process for determining which
5 adjunctive services are needed, the uniform process for
6 facilitating the prescribing physician's ability to obtain the
7 express and informed consent of a child's parent or guardian,
8 the procedures for obtaining court authorization for the
9 provision of a psychotropic medication, the frequency of
10 medical monitoring and reporting on the status of the child to
11 the court, how the child's parents will be involved in the
12 treatment-planning process if their parental rights have not
13 been terminated, and how caretakers are to be provided
14 information contained in the physician's signed medical
15 report. The rules must also include uniform forms to be used
16 in requesting court authorization for the use of a
17 psychotropic medication and provide for the integration of
18 each child's treatment plan and case plan. The department must
19 begin the formal rulemaking process within 90 days after the
20 effective date of this act.

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

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

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

9 (5) A judge may order a child in an out-of-home
10 placement to be treated by a licensed health care professional
11 based on evidence that the child should receive treatment.
12 The judge may also order such child to receive mental health
13 or developmental disabilities services from a psychiatrist,
14 psychologist, or other appropriate service provider. Except
15 as provided in subsection (6), if it is necessary to place the
16 child in a residential facility for such services, the
17 procedures and criteria established in s. 394.467 or chapter
18 393 shall be used, whichever is applicable. A child may be
19 provided developmental disabilities or mental health services
20 in emergency situations, pursuant to the procedures and
21 criteria contained in s. 394.463(1) or chapter 393, whichever
22 is applicable.

23 (6) Children who are in the legal custody of the
24 department may be placed by the department, without prior
25 approval of the court, in a residential treatment center
26 licensed under s. 394.875 or a hospital licensed under chapter
27 395 for residential mental health treatment only pursuant to
28 this section or may be placed by the court in accordance with
29 an order of involuntary examination or involuntary placement
30 entered pursuant to s. 394.463 or s. 394.467. All children
31

1 placed in a residential treatment program under this
2 subsection must have a guardian ad litem appointed.

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

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

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

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

19 a. The child requires residential treatment.

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

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

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

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

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

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

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

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

23 |
24 | A copy of the written findings of the evaluation and
25 | suitability assessment must be provided to the department and
26 | to the guardian ad litem, who shall have the opportunity to
27 | discuss the findings with the evaluator.

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

1 | court with a copy of the assessment by the qualified
2 | evaluator.

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

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

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

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

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

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

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

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

28 (i) The department must adopt rules for implementing
29 timeframes for the completion of suitability assessments by
30 qualified evaluators and a procedure that includes timeframes
31 for completing the 3-month independent review by the qualified

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

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

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

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

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

27 | (11) Nothing in this section shall be construed to
28 | authorize the permanent sterilization of the child unless such
29 | sterilization is the result of or incidental to medically
30 | necessary treatment to protect or preserve the life of the
31 | child.

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

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

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

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

29 (16) At any time after a shelter petition or petition
30 for dependency is filed, the court may order a child or a
31 person who has custody or is requesting custody of the child

1 to submit to a substance abuse assessment or evaluation. The
2 assessment or evaluation must be administered by a qualified
3 professional, as defined in s. 397.311. The order may be made
4 only upon good cause shown. This subsection does not authorize
5 placement of a child with a person seeking custody, other than
6 the parent or legal custodian, who requires substance abuse
7 treatment.

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

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

12 (9) After an adjudication of dependency, or a finding
13 of dependency where adjudication is withheld, the court may
14 order a child or a person who has custody or is requesting
15 custody of the child to submit to a substance abuse assessment
16 or evaluation. The assessment or evaluation must be
17 administered by a qualified professional, as defined in s.
18 397.311. The court may also require such person to participate
19 in and comply with treatment and services identified as
20 necessary, including, when appropriate and available,
21 participation in and compliance with a treatment-based drug
22 court program established under s. 397.334. In addition to
23 supervision by the department, the court, including the
24 treatment-based drug court program, may oversee the progress
25 and compliance with treatment by the child or a person who has
26 custody or is requesting custody of the child. The court may
27 impose appropriate available sanctions for noncompliance upon
28 the child or a person who has custody or is requesting custody
29 of the child or make a finding of noncompliance for
30 consideration in determining whether an alternative placement
31 of the child is in the child's best interests. Any order

1 entered under this subsection may be made only upon good cause
2 shown. This subsection does not authorize placement of a child
3 with a person seeking custody, other than the parent or legal
4 custodian, who requires substance abuse treatment.

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

7 39.521 Disposition hearings; powers of disposition.--

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

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

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

1 treatment-based drug court program, may oversee the progress
2 and compliance with treatment by the child or a person who has
3 custody or is requesting custody of the child. The court may
4 impose appropriate available sanctions for noncompliance upon
5 the child or a person who has custody or is requesting custody
6 of the child or make a finding of noncompliance for
7 consideration in determining whether an alternative placement
8 of the child is in the child's best interests. Any order
9 entered under this subparagraph may be made only upon good
10 cause shown. This subparagraph does not authorize placement of
11 a child with a person seeking custody of the child, other than
12 the child's parent or legal custodian, who requires substance
13 abuse treatment.

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

16 3. Require placement of the child either under the
17 protective supervision of an authorized agent of the
18 department in the home of one or both of the child's parents
19 or in the home of a relative of the child or another adult
20 approved by the court, or in the custody of the department.
21 Protective supervision continues until the court terminates it
22 or until the child reaches the age of 18, whichever date is
23 first. Protective supervision shall be terminated by the court
24 whenever the court determines that permanency has been
25 achieved for the child, whether with a parent, another
26 relative, or a legal custodian, and that protective
27 supervision is no longer needed. The termination of
28 supervision may be with or without retaining jurisdiction, at
29 the court's discretion, and shall in either case be considered
30 a permanency option for the child. The order terminating
31 supervision by the department shall set forth the powers of

1 the custodian of the child and shall include the powers
2 ordinarily granted to a guardian of the person of a minor
3 unless otherwise specified. Upon the court's termination of
4 supervision by the department, no further judicial reviews are
5 required, so long as permanency has been established for the
6 child.

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

9 397.334 Treatment-based drug court programs.--

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

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

29 (2) Entry into any pretrial treatment-based drug court
30 program shall be voluntary. The court may only order an
31 individual to enter into a pretrial treatment-based drug court

1 program upon written agreement by the individual, which shall
2 include a statement that the individual understands the
3 requirements of the program and the potential sanctions for
4 noncompliance.

5 ~~(3)(2)~~ The treatment-based drug court programs shall
6 include therapeutic jurisprudence principles and adhere to the
7 following 10 key components, recognized by the Drug Courts
8 Program Office of the Office of Justice Programs of the United
9 States Department of Justice and adopted by the Florida
10 Supreme Court Treatment-Based Drug Court Steering Committee:

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

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

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

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

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

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

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

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

29 (i) Continuing interdisciplinary education promotes
30 effective drug court program planning, implementation, and
31 operations.

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

4 ~~(4)(3)~~ Treatment-based drug court programs may include
5 pretrial intervention programs as provided in ss. 948.08,
6 948.16, and 985.306, treatment-based drug court programs
7 authorized in chapter 39, postadjudicatory programs, and the
8 monitoring of sentenced offenders through a treatment-based
9 drug court program. While enrolled in any treatment-based drug
10 court program, the participant is subject to a coordinated
11 strategy developed by the drug court team under paragraph
12 (3)(f). Each coordinated strategy may include a protocol of
13 sanctions that may be imposed upon the participant for
14 noncompliance with program rules. The protocol of sanctions
15 for treatment-based programs may include, but is not limited
16 to, placement in a substance abuse treatment program offered
17 by a licensed service provider as defined in s. 397.311 or in
18 a jail-based treatment program or serving a period of secure
19 detention under chapter 985 if a child or a period of
20 incarceration within the time limits established for contempt
21 of court if an adult. The coordinated strategy must be
22 provided in writing to the participant before the participant
23 agrees to enter into a pretrial treatment-based drug court
24 program. Any person whose charges are dismissed after
25 successful completion of the treatment-based drug court
26 program, if otherwise eligible, may have his or her arrest
27 record and plea of nolo contendere to the dismissed charges
28 expunged under s. 943.0585.

29 (5) Contingent upon an annual appropriation by the
30 Legislature, each judicial circuit shall establish, at a
31 minimum, one coordinator position for the treatment-based drug

1 court program within the state courts system to coordinate the
2 responsibilities of the participating agencies and service
3 providers. Each coordinator shall provide direct support to
4 the treatment-based drug court program by providing
5 coordination between the multidisciplinary team and the
6 judiciary, providing case management, monitoring compliance of
7 the participants in the treatment-based drug court program
8 with court requirements, and providing program evaluation and
9 accountability.

10 ~~(6)(4)~~(a) The Florida Association of Drug Court
11 ~~Program~~ Professionals is created. The membership of the
12 association may consist of treatment-based drug court program
13 practitioners who comprise the multidisciplinary
14 treatment-based drug court program team, including, but not
15 limited to, judges, state attorneys, defense counsel,
16 treatment-based drug court program coordinators, probation
17 officers, law enforcement officers, community representatives,
18 members of the academic community, and treatment
19 professionals. Membership in the association shall be
20 voluntary.

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

1 ~~(7)(5)~~ If a county chooses to fund a treatment-based
2 drug court program, the county must secure funding from
3 sources other than the state for those costs not otherwise
4 assumed by the state pursuant to s. 29.004. However, this does
5 not preclude counties from using treatment and other service
6 dollars provided through state executive branch agencies.
7 Counties may provide, by interlocal agreement, for the
8 collective funding of these programs.

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

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

22 910.035 Transfer from county for plea and sentence.--

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

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

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

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

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

14 948.08 Pretrial intervention program.--

15 (6)(a) Notwithstanding any provision of this section,
16 a person who is charged with a felony of the second or third
17 degree for purchase or possession of a controlled substance
18 under chapter 893, prostitution, tampering with evidence,
19 solicitation for purchase of a controlled substance, or
20 obtaining a prescription by fraud; who has not been charged
21 with a crime involving violence, including, but not limited
22 to, murder, sexual battery, robbery, carjacking, home-invasion
23 robbery, or any other crime involving violence; and who has
24 not previously been convicted of a felony nor been admitted to
25 a felony pretrial program referred to in this section is
26 eligible for voluntary admission into a pretrial substance
27 abuse education and treatment intervention program, including
28 a treatment-based drug court program established pursuant to
29 s. 397.334, approved by the chief judge of the circuit, for a
30 period of not less than 1 year in duration, upon motion of
31 either party or the court's own motion, except:

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

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

15 (b) While enrolled in a pretrial intervention program
16 authorized by this subsection, the participant is subject to a
17 coordinated strategy developed by a drug court team under s.
18 397.334(3). The coordinated strategy may include a protocol of
19 sanctions that may be imposed upon the participant for
20 noncompliance with program rules. The protocol of sanctions
21 may include, but is not limited to, placement in a substance
22 abuse treatment program offered by a licensed service provider
23 as defined in s. 397.311 or in a jail-based treatment program
24 or serving a period of incarceration within the time limits
25 established for contempt of court. The coordinated strategy
26 must be provided in writing to the participant before the
27 participant agrees to enter into a pretrial treatment-based
28 drug court program, or other pretrial intervention program.

29 ~~(c)(b)~~ At the end of the pretrial intervention period,
30 the court shall consider the recommendation of the
31 administrator pursuant to subsection (5) and the

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

5 ~~(c)1.~~ 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, which may include substance abuse treatment
9 programs offered by licensed service providers, as defined in
10 s. 397.311, or jail-based treatment programs, or order that
11 the charges revert to normal channels for prosecution.

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

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

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

1 ~~representing any other agencies to which persons released to~~
2 ~~the pretrial intervention program may be referred.~~

3 ~~(7)(8)~~ The department may contract for the services
4 and facilities necessary to operate pretrial intervention
5 programs.

6 Section 9. Section 948.16, Florida Statutes, is
7 amended to read:

8 948.16 Misdemeanor pretrial substance abuse education
9 and treatment intervention program.--

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

29 (b) While enrolled in a pretrial intervention program
30 authorized by this section, the participant is subject to a
31 coordinated strategy developed by a drug court team under s.

1 397.334(3). The coordinated strategy may include a protocol of
2 sanctions that may be imposed upon the participant for
3 noncompliance with program rules. The protocol of sanctions
4 may include, but is not limited to, placement in a substance
5 abuse treatment program offered by a licensed service provider
6 as defined in s. 397.311 or in a jail-based treatment program
7 or serving a period of incarceration within the time limits
8 established for contempt of court. The coordinated strategy
9 must be provided in writing to the participant before the
10 participant agrees to enter into a pretrial treatment-based
11 drug court program, or other pretrial intervention program.

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

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

23 ~~(b)~~ The court shall dismiss the charges upon finding
24 that the defendant has successfully completed the pretrial
25 intervention program.

26 (3) Any public or private entity providing a pretrial
27 substance abuse education and treatment program under this
28 section shall contract with the county or appropriate
29 governmental entity. The terms of the contract shall include,
30 but not be limited to, the requirements established for
31 private entities under s. 948.15(3).

1 Section 10. Section 985.306, Florida Statutes, is
2 amended to read:

3 985.306 Delinquency pretrial intervention program.--

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

30 (2) While enrolled in a delinquency pretrial
31 intervention program authorized by this section, a child is

1 subject to a coordinated strategy developed by a drug court
2 team under s. 397.334(3). The coordinated strategy may include
3 a protocol of sanctions that may be imposed upon the child for
4 noncompliance with program rules. The protocol of sanctions
5 may include, but is not limited to, placement in a substance
6 abuse treatment program offered by a licensed service provider
7 as defined in s. 397.311 or serving a period of secure
8 detention under this chapter. The coordinated strategy must be
9 provided in writing to the child before the child agrees to
10 enter the pretrial treatment-based drug court program, or
11 other pretrial intervention program.

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

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

25 ~~2.~~ The court may dismiss the charges upon a finding
26 that the child has successfully completed the delinquency
27 pretrial intervention program.

28 ~~(4)(d)~~ Any entity, whether public or private,
29 providing pretrial substance abuse education, treatment
30 intervention, and a urine monitoring program under this
31 section must contract with the county or appropriate

1 governmental entity, and the terms of the contract must
2 include, but need not be limited to, the requirements
3 established for private entities under s. 948.15(3). It is the
4 intent of the Legislature that public or private entities
5 providing substance abuse education and treatment intervention
6 programs involve the active participation of parents, schools,
7 churches, businesses, law enforcement agencies, and the
8 department or its contract providers.

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

18 Section 11. This act shall take effect upon becoming a
19 law.

20
21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 CS/CS/SB 114

- 24 - Provides that the state attorney may make a motion for
25 the court to deny a defendant's admission to a pretrial
26 substance abuse and treatment program when the defendant
27 has previously rejected the offer.
28 - Clarifies that an alternative available to the court for
29 a defendant who has not successfully completed the
30 pretrial intervention program is a substance abuse
31 treatment program, provided by a licensed service
provider as defined in s. 397.311, F.S., rather than a
"secure licensed clinical" program.