

1                   A bill to be entitled  
2           An act relating to drug court programs; providing a short  
3           title; amending s. 39.001, F.S.; providing additional  
4           legislative purposes and intent with respect to the  
5           treatment of substance abuse, including the use of the  
6           drug court program model; authorizing the court to require  
7           certain persons to undergo treatment following  
8           adjudication; amending s. 39.407, F.S.; authorizing the  
9           court to order specified persons to submit to a substance  
10          abuse assessment upon a showing of good cause in  
11          connection with a shelter petition or petition for  
12          dependency; amending ss. 39.507 and 39.521, F.S.;  
13          authorizing the court to order specified persons to submit  
14          to a substance abuse assessment as part of an adjudicatory  
15          order or pursuant to a disposition hearing; requiring a  
16          showing of good cause; authorizing the court to require  
17          participation in a treatment-based drug court program;  
18          authorizing the court to impose sanctions for  
19          noncompliance; amending s. 39.701, F.S.; authorizing the  
20          court to extend the time for completing a case plan during  
21          judicial review, based upon participation in a treatment-  
22          based drug court program; amending s. 397.334, F.S.;  
23          revising legislative intent with respect to treatment-  
24          based drug court programs to reflect participation by  
25          community support agencies, the Department of Education,  
26          and other individuals; including postadjudicatory programs  
27          as part of treatment-based drug court programs; providing  
28          requirements and sanctions, including clinical placement

29 or incarceration, for the coordinated strategy developed  
 30 by the drug court team to encourage participant  
 31 compliance; requiring each judicial circuit to establish a  
 32 position for a coordinator of the treatment-based drug  
 33 court program, subject to annual appropriation by the  
 34 Legislature; authorizing the chief judge of each judicial  
 35 circuit to appoint an advisory committee for the  
 36 treatment-based drug court program; providing for  
 37 membership of the committee; revising language with  
 38 respect to an annual report; amending s. 910.035, F.S.;  
 39 revising language with respect to conditions for the  
 40 transfer of a case in the drug court treatment program to  
 41 a county other than that in which the charge arose;  
 42 amending ss. 948.08, 948.16, and 985.306, F.S., relating  
 43 to felony, misdemeanor, and delinquency pretrial substance  
 44 abuse education and treatment intervention programs;  
 45 providing requirements and sanctions, including clinical  
 46 placement or incarceration, for the coordinated strategy  
 47 developed by the drug court team to encourage participant  
 48 compliance and removing provisions authorizing appointment  
 49 of an advisory committee, to conform to changes made by  
 50 the act; providing an effective date.

51  
 52 Be It Enacted by the Legislature of the State of Florida:

53  
 54 Section 1. This act may be cited as the "Robert J. Koch  
 55 Drug Court Intervention Act."

56 Section 2. Subsection (4) of section 39.001, Florida

57 Statutes, is amended to read:

58 39.001 Purposes and intent; personnel standards and  
59 screening.--

60 (4) SUBSTANCE ABUSE SERVICES.--

61 (a) The Legislature recognizes that early referral and  
62 comprehensive treatment can help combat substance abuse in  
63 families and that treatment is cost effective.

64 (b) The Legislature establishes the following goals for  
65 the state related to substance abuse treatment services in the  
66 dependency process:

67 1. To ensure the safety of children.

68 2. To prevent and remediate the consequences of substance  
69 abuse on families involved in protective supervision or foster  
70 care and reduce substance abuse, including alcohol abuse, for  
71 families who are at risk of being involved in protective  
72 supervision or foster care.

73 3. To expedite permanency for children and reunify  
74 healthy, intact families, when appropriate.

75 4. To support families in recovery.

76 (c) The Legislature finds that children in the care of the  
77 state's dependency system need appropriate health care services,  
78 that the impact of substance abuse on health indicates the need  
79 for health care services to include substance abuse services to  
80 children and parents where appropriate, and that it is in the  
81 state's best interest that such children be provided the  
82 services they need to enable them to become and remain  
83 independent of state care. In order to provide these services,  
84 the state's dependency system must have the ability to identify

85 and provide appropriate intervention and treatment for children  
 86 with personal or family-related substance abuse problems.

87 (d) It is the intent of the Legislature to encourage the  
 88 use of the drug court program model established by s. 397.334  
 89 and authorize courts to assess parents and children where good  
 90 cause is shown to identify and address substance abuse problems  
 91 as the court deems appropriate at every stage of the dependency  
 92 process. Participation in treatment, including a treatment-based  
 93 drug court program, may be required by the court following  
 94 adjudication. Participation in assessment and treatment prior to  
 95 adjudication shall be voluntary, except as provided in s.  
 96 39.407(16).

97 (e) It is therefore the purpose of the Legislature to  
 98 provide authority for the state to contract with community  
 99 substance abuse treatment providers for the development and  
 100 operation of specialized support and overlay services for the  
 101 dependency system, which will be fully implemented and used  
 102 utilized as resources permit.

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

108 Section 3. Subsection (15) of section 39.407, Florida  
 109 Statutes, is amended and subsection (16) is added to that  
 110 section to read:

111 39.407 Medical, psychiatric, and psychological examination  
 112 and treatment of child; physical, ~~or~~ mental, or substance abuse

113 examination of ~~parent or person~~ with or requesting child custody  
 114 ~~of child.~~--

115 (15) At any time after the filing of a shelter petition or  
 116 petition for dependency, when the mental or physical condition,  
 117 including the blood group, of a parent, caregiver, legal  
 118 custodian, or other person who has custody or is requesting  
 119 custody of a child is in controversy, the court may order the  
 120 person to submit to a physical or mental examination by a  
 121 qualified professional. The order may be made only upon good  
 122 cause shown and pursuant to notice and procedures as set forth  
 123 by the Florida Rules of Juvenile Procedure.

124 (16) At any time after a shelter petition or petition for  
 125 dependency is filed, the court may order a child or a person who  
 126 has custody or is requesting custody of the child to submit to a  
 127 substance abuse assessment and evaluation. The assessment and  
 128 evaluation must be administered by a qualified professional, as  
 129 defined in s. 397.311. The order may be made only upon good  
 130 cause shown. This subsection shall not be construed to authorize  
 131 placement of a child with a person seeking custody, other than  
 132 the parent or legal custodian, who requires substance abuse  
 133 treatment.

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

136 39.507 Adjudicatory hearings; orders of adjudication.--

137 (9) After an adjudication of dependency, or a finding of  
 138 dependency where adjudication is withheld, the court may order a  
 139 child or a person who has custody or is requesting custody of  
 140 the child to submit to a substance abuse assessment or

141 evaluation. The assessment or evaluation must be administered by  
 142 a qualified professional, as defined in s. 397.311. The court  
 143 may also require such person to participate in and comply with  
 144 treatment and services identified as necessary, including, when  
 145 appropriate and available, participation in and compliance with  
 146 a treatment-based drug court program established under s.  
 147 397.334. In addition to supervision by the department, the  
 148 court, including the treatment-based drug court program, may  
 149 oversee the progress and compliance with treatment by the child  
 150 or a person who has custody or is requesting custody of the  
 151 child. The court may impose appropriate available sanctions for  
 152 noncompliance upon the child or a person who has custody or is  
 153 requesting custody of the child or make a finding of  
 154 noncompliance for consideration in determining whether an  
 155 alternative placement of the child is in the child's best  
 156 interests. Any order entered under this subsection may be made  
 157 only upon good cause shown. This subsection shall not be  
 158 construed to authorize placement of a child with a person  
 159 seeking custody, other than the parent or legal custodian, who  
 160 requires substance abuse treatment.

161 Section 5. Paragraph (b) of subsection (1) of section  
 162 39.521, Florida Statutes, is amended to read:

163 39.521 Disposition hearings; powers of disposition.--

164 (1) A disposition hearing shall be conducted by the court,  
 165 if the court finds that the facts alleged in the petition for  
 166 dependency were proven in the adjudicatory hearing, or if the  
 167 parents or legal custodians have consented to the finding of  
 168 dependency or admitted the allegations in the petition, have

169 failed to appear for the arraignment hearing after proper  
 170 notice, or have not been located despite a diligent search  
 171 having been conducted.

172 (b) When any child is adjudicated by a court to be  
 173 dependent, the court having jurisdiction of the child has the  
 174 power by order to:

175 1. Require the parent and, when appropriate, the legal  
 176 custodian and the child, to participate in treatment and  
 177 services identified as necessary. The court may require the  
 178 child or the person who has custody or who is requesting custody  
 179 of the child to submit to a substance abuse assessment or  
 180 evaluation. The assessment or evaluation must be administered by  
 181 a qualified professional, as defined in s. 397.311. The court  
 182 may also require such person to participate in and comply with  
 183 treatment and services identified as necessary, including, when  
 184 appropriate and available, participation in and compliance with  
 185 a treatment-based drug court program established under s.  
 186 397.334. In addition to supervision by the department, the  
 187 court, including the treatment-based drug court program, may  
 188 oversee the progress and compliance with treatment by the child  
 189 or a person who has custody or is requesting custody of the  
 190 child. The court may impose appropriate available sanctions for  
 191 noncompliance upon the child or a person who has custody or is  
 192 requesting custody of the child or make a finding of  
 193 noncompliance for consideration in determining whether an  
 194 alternative placement of the child is in the child's best  
 195 interests. Any order entered under this subparagraph may be made  
 196 only upon good cause shown. This subparagraph shall not be

197 construed to authorize placement of a child with a person  
 198 seeking custody of the child, other than the child's parent or  
 199 legal custodian, who requires substance abuse treatment.

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

202         3. Require placement of the child either under the  
 203 protective supervision of an authorized agent of the department  
 204 in the home of one or both of the child's parents or in the home  
 205 of a relative of the child or another adult approved by the  
 206 court, or in the custody of the department. Protective  
 207 supervision continues until the court terminates it or until the  
 208 child reaches the age of 18, whichever date is first. Protective  
 209 supervision shall be terminated by the court whenever the court  
 210 determines that permanency has been achieved for the child,  
 211 whether with a parent, another relative, or a legal custodian,  
 212 and that protective supervision is no longer needed. The  
 213 termination of supervision may be with or without retaining  
 214 jurisdiction, at the court's discretion, and shall in either  
 215 case be considered a permanency option for the child. The order  
 216 terminating supervision by the department shall set forth the  
 217 powers of the custodian of the child and shall include the  
 218 powers ordinarily granted to a guardian of the person of a minor  
 219 unless otherwise specified. Upon the court's termination of  
 220 supervision by the department, no further judicial reviews are  
 221 required, so long as permanency has been established for the  
 222 child.

223         Section 6. Paragraph (d) of subsection (9) of section  
 224 39.701, Florida Statutes, is amended to read:



225 39.701 Judicial review.--

226 (9)

227 (d) The court may extend the time limitation of the case  
 228 plan, or may modify the terms of the plan, which, in addition to  
 229 other modifications, may include a requirement that the parent  
 230 or legal custodian participate in a treatment-based drug court  
 231 program established under s. 397.334, based upon information  
 232 provided by the social service agency, and the guardian ad  
 233 litem, if one has been appointed, the parent or parents, and the  
 234 foster parents or legal custodian, and any other competent  
 235 information on record demonstrating the need for the amendment.  
 236 If the court extends the time limitation of the case plan, the  
 237 court must make specific findings concerning the frequency of  
 238 past parent-child visitation, if any, and the court may  
 239 authorize the expansion or restriction of future visitation.  
 240 Modifications to the plan must be handled as prescribed in s.  
 241 39.601. Any extension of a case plan must comply with the time  
 242 requirements and other requirements specified by this chapter.

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

245 397.334 Treatment-based drug court programs.--

246 (1) Each county may fund a treatment-based drug court  
 247 program under which persons in the justice system assessed with  
 248 a substance abuse problem will be processed in such a manner as  
 249 to appropriately address the severity of the identified  
 250 substance abuse problem through treatment services ~~plans~~  
 251 tailored to the individual needs of the participant. It is the  
 252 intent of the Legislature to encourage the Department of

253 Corrections, the Department of Children and Family Services, the  
 254 Department of Juvenile Justice, the Department of Health, the  
 255 Department of Law Enforcement, the Department of Education, and  
 256 such ~~other~~ agencies, local governments, law enforcement  
 257 agencies, ~~and~~ other interested public or private sources, and  
 258 individuals to support the creation and establishment of these  
 259 problem-solving court programs. Participation in the treatment-  
 260 based drug court programs does not divest any public or private  
 261 agency of its responsibility for a child or adult, but enables  
 262 ~~allows~~ these agencies to better meet their needs through shared  
 263 responsibility and resources.

264 (2) Entry into any pretrial treatment-based drug court  
 265 program shall be voluntary. The court may only order an  
 266 individual to enter into a pretrial treatment-based drug court  
 267 program upon written agreement by the individual, which shall  
 268 include a statement that the individual understands the  
 269 requirements of the program and the potential sanctions for  
 270 noncompliance.

271 (3)~~(2)~~ The treatment-based drug court programs shall  
 272 include therapeutic jurisprudence principles and adhere to the  
 273 following 10 key components, recognized by the Drug Courts  
 274 Program Office of the Office of Justice Programs of the United  
 275 States Department of Justice and adopted by the Florida Supreme  
 276 Court Treatment-Based Drug Court Steering Committee:

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

279 (b) Using a nonadversarial approach, prosecution and  
 280 defense counsel promote public safety while protecting

281 participants' due process rights.

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

284 (d) Drug court programs provide access to a continuum of  
285 alcohol, drug, and other related treatment and rehabilitation  
286 services.

287 (e) Abstinence is monitored by frequent testing for  
288 alcohol and other drugs.

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

291 (g) Ongoing judicial interaction with each drug court  
292 program participant is essential.

293 (h) Monitoring and evaluation measure the achievement of  
294 program goals and gauge program effectiveness.

295 (i) Continuing interdisciplinary education promotes  
296 effective drug court program planning, implementation, and  
297 operations.

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

301 (4)(3) Treatment-based drug court programs may include  
302 pretrial intervention programs as provided in ss. 948.08,  
303 948.16, and 985.306, treatment-based drug court programs  
304 authorized in chapter 39, postadjudicatory programs, and the  
305 monitoring of sentenced offenders through a treatment-based drug  
306 court program. While enrolled in any treatment-based drug court  
307 program, the participant is subject to a coordinated strategy  
308 developed by the drug court team under paragraph (3)(f). Each

309 coordinated strategy must include a protocol of sanctions that  
310 may be imposed upon the participant. The protocol of sanctions  
311 for treatment-based programs other than those authorized in  
312 chapter 39 must include, and the protocol of sanctions for  
313 treatment-based drug court programs authorized in chapter 39 may  
314 include, as available options placement in a secure licensed  
315 clinical or jail-based treatment program or serving a period of  
316 incarceration for noncompliance with program rules within the  
317 time limits established for contempt of court. The coordinated  
318 strategy must be provided in writing to the participant before  
319 the participant agrees to enter into a pretrial treatment-based  
320 drug court program. Any person whose charges are dismissed after  
321 successful completion of the treatment-based drug court program,  
322 if otherwise eligible, may have his or her arrest record and  
323 plea of nolo contendere to the dismissed charges expunged under  
324 s. 943.0585.

325 (5) Contingent upon an annual appropriation by the  
326 Legislature, each judicial circuit shall establish, at a  
327 minimum, one coordinator position for the treatment-based drug  
328 court program within the state courts system to coordinate the  
329 responsibilities of the participating agencies and service  
330 providers. Each coordinator shall provide direct support to the  
331 treatment-based drug court program by providing coordination  
332 between the multidisciplinary team and the judiciary, providing  
333 case management, monitoring compliance of the participants in  
334 the treatment-based drug court program with court requirements,  
335 and providing program evaluation and accountability.

336 (6)(4)(a) The Florida Association of Drug Court Program

337 Professionals is created. The membership of the association may  
338 consist of treatment-based drug court program practitioners who  
339 comprise the multidisciplinary treatment-based drug court  
340 program team, including, but not limited to, judges, state  
341 attorneys, defense counsel, treatment-based drug court program  
342 coordinators, probation officers, law enforcement officers,  
343 community representatives, members of the academic community,  
344 and treatment professionals. Membership in the association shall  
345 be voluntary.

346 (b) The association shall annually elect a chair whose  
347 duty is to solicit recommendations from members on issues  
348 relating to the expansion, operation, and institutionalization  
349 of treatment-based drug court programs. The chair is responsible  
350 for providing on or before October 1 of each year the  
351 association's recommendations and an annual report to the  
352 appropriate Supreme Court ~~Treatment-Based Drug Court Steering~~  
353 committee or to the appropriate personnel of the Office of the  
354 State Courts Administrator, ~~and shall submit a report each year,~~  
355 ~~on or before October 1, to the steering committee.~~

356 ~~(7)(5)~~ If a county chooses to fund a treatment-based drug  
357 court program, the county must secure funding from sources other  
358 than the state for those costs not otherwise assumed by the  
359 state pursuant to s. 29.004. However, this does not preclude  
360 counties from using treatment and other service dollars provided  
361 through state executive branch agencies. Counties may provide,  
362 by interlocal agreement, for the collective funding of these  
363 programs.

364 (8) The chief judge of each judicial circuit may appoint

365 an advisory committee for the treatment-based drug court  
 366 program. The committee shall be composed of the chief judge, or  
 367 his or her designee, who shall serve as chair; the judge of the  
 368 treatment-based drug court program, if not otherwise designated  
 369 by the chief judge as his or her designee; the state attorney,  
 370 or his or her designee; the public defender, or his or her  
 371 designee; the treatment-based drug court program coordinators;  
 372 community representatives; treatment representatives; and any  
 373 other persons the chair finds are appropriate.

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

376 910.035 Transfer from county for plea and sentence.--

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

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

387 (e) Upon successful completion of the drug court program,  
 388 the jurisdiction to which the case has been transferred shall  
 389 dispose of the case pursuant to s. 948.08(6). If the defendant  
 390 does not complete the drug court program successfully, the  
 391 jurisdiction to which the case has been transferred shall  
 392 dispose of the case within the guidelines of the Criminal

393 ~~Punishment Code case shall be prosecuted as determined by the~~  
 394 ~~state attorneys of the sending and receiving counties.~~

395 Section 9. Subsections (6), (7), and (8) of section  
 396 948.08, Florida Statutes, are amended to read:

397 948.08 Pretrial intervention program.--

398 (6)(a) Notwithstanding any provision of this section, a  
 399 person who is charged with a felony of the second or third  
 400 degree for purchase or possession of a controlled substance  
 401 under chapter 893, prostitution, tampering with evidence,  
 402 solicitation for purchase of a controlled substance, or  
 403 obtaining a prescription by fraud; who has not been charged with  
 404 a crime involving violence, including, but not limited to,  
 405 murder, sexual battery, robbery, carjacking, home-invasion  
 406 robbery, or any other crime involving violence; and who has not  
 407 previously been convicted of a felony nor been admitted to a  
 408 felony pretrial program referred to in this section is eligible  
 409 for voluntary admission into a pretrial substance abuse  
 410 education and treatment intervention program, including a  
 411 treatment-based drug court program established pursuant to s.  
 412 397.334, approved by the chief judge of the circuit, for a  
 413 period of not less than 1 year in duration, upon motion of  
 414 either party or the court's own motion, except:

415 1. If a defendant was previously offered admission to a  
 416 pretrial substance abuse education and treatment intervention  
 417 program at any time prior to trial and the defendant rejected  
 418 that offer on the record, then the court or the state attorney  
 419 may deny the defendant's admission to such a program.

420 2. If the state attorney believes that the facts and

421 | circumstances of the case suggest the defendant's involvement in  
 422 | the dealing and selling of controlled substances, the court  
 423 | shall hold a preadmission hearing. If the state attorney  
 424 | establishes, by a preponderance of the evidence at such hearing,  
 425 | that the defendant was involved in the dealing or selling of  
 426 | controlled substances, the court shall deny the defendant's  
 427 | admission into a pretrial intervention program.

428 |       (b) While enrolled in a pretrial intervention program  
 429 | authorized by this section, the participant is subject to a  
 430 | coordinated strategy developed by a drug court team under s.  
 431 | 397.334(3). The coordinated strategy must include a protocol of  
 432 | sanctions that may be imposed upon the participant. The protocol  
 433 | of sanctions must include as available options placement in a  
 434 | secure licensed clinical or jail-based treatment program or  
 435 | serving a period of incarceration for noncompliance with program  
 436 | rules within the time limits established for contempt of court.  
 437 | The coordinated strategy must be provided in writing to the  
 438 | participant before the participant agrees to enter into a  
 439 | pretrial treatment-based drug court program, or other pretrial  
 440 | intervention program.

441 |       ~~(c)(b)~~ At the end of the pretrial intervention period, the  
 442 | court shall consider the recommendation of the administrator  
 443 | pursuant to subsection (5) and the recommendation of the state  
 444 | attorney as to disposition of the pending charges. The court  
 445 | shall determine, by written finding, whether the defendant has  
 446 | successfully completed the pretrial intervention program.

447 |       ~~(e)1.~~ If the court finds that the defendant has not  
 448 | successfully completed the pretrial intervention program, the



449 court may order the person to continue in education and  
450 treatment, which may include secure licensed clinical or jail-  
451 based treatment programs, or order that the charges revert to  
452 normal channels for prosecution.

453 2. The court shall dismiss the charges upon a finding that  
454 the defendant has successfully completed the pretrial  
455 intervention program.

456 (d) Any entity, whether public or private, providing a  
457 pretrial substance abuse education and treatment intervention  
458 program under this subsection must contract with the county or  
459 appropriate governmental entity, and the terms of the contract  
460 must include, but need not be limited to, the requirements  
461 established for private entities under s. 948.15(3).

462 ~~(7) The chief judge in each circuit may appoint an~~  
463 ~~advisory committee for the pretrial intervention program~~  
464 ~~composed of the chief judge or his or her designee, who shall~~  
465 ~~serve as chair; the state attorney, the public defender, and the~~  
466 ~~program administrator, or their designees; and such other~~  
467 ~~persons as the chair deems appropriate. The advisory committee~~  
468 ~~may not designate any defendant eligible for a pretrial~~  
469 ~~intervention program for any offense that is not listed under~~  
470 ~~paragraph (6)(a) without the state attorney's recommendation and~~  
471 ~~approval. The committee may also include persons representing~~  
472 ~~any other agencies to which persons released to the pretrial~~  
473 ~~intervention program may be referred.~~

474 (7)(8) The department may contract for the services and  
475 facilities necessary to operate pretrial intervention programs.

476 Section 10. Section 948.16, Florida Statutes, is amended

477 to read:

478 948.16 Misdemeanor pretrial substance abuse education and  
 479 treatment intervention program.--

480 (1)(a) A person who is charged with a misdemeanor for  
 481 possession of a controlled substance or drug paraphernalia under  
 482 chapter 893, and who has not previously been convicted of a  
 483 felony nor been admitted to a pretrial program, is eligible for  
 484 voluntary admission into a misdemeanor pretrial substance abuse  
 485 education and treatment intervention program, including a  
 486 treatment-based drug court program established pursuant to s.  
 487 397.334, approved by the chief judge of the circuit, for a  
 488 period based on the program requirements and the treatment plan  
 489 for the offender, upon motion of either party or the court's own  
 490 motion, except, if the state attorney believes the facts and  
 491 circumstances of the case suggest the defendant is involved in  
 492 dealing and selling controlled substances, the court shall hold  
 493 a preadmission hearing. If the state attorney establishes, by a  
 494 preponderance of the evidence at such hearing, that the  
 495 defendant was involved in dealing or selling controlled  
 496 substances, the court shall deny the defendant's admission into  
 497 the pretrial intervention program.

498 (b) While enrolled in a pretrial intervention program  
 499 authorized by this section, the participant is subject to a  
 500 coordinated strategy developed by a drug court team under s.  
 501 397.334(3). The coordinated strategy must include a protocol of  
 502 sanctions that may be imposed upon the participant. The protocol  
 503 of sanctions must include as available options placement in a  
 504 secure licensed clinical or jail-based treatment program or

505 serving a period of incarceration for noncompliance with program  
 506 rules within the time limits established for contempt of court.  
 507 The coordinated strategy must be provided in writing to the  
 508 participant before the participant agrees to enter into a  
 509 pretrial treatment-based drug court program, or other pretrial  
 510 intervention program.

511 (2) At the end of the pretrial intervention period, the  
 512 court shall consider the recommendation of the treatment program  
 513 and the recommendation of the state attorney as to disposition  
 514 of the pending charges. The court shall determine, by written  
 515 finding, whether the defendant successfully completed the  
 516 pretrial intervention program.

517 ~~(a)~~ If the court finds that the defendant has not  
 518 successfully completed the pretrial intervention program, the  
 519 court may order the person to continue in education and  
 520 treatment or return the charges to the criminal docket for  
 521 prosecution.

522 ~~(b)~~ The court shall dismiss the charges upon finding that  
 523 the defendant has successfully completed the pretrial  
 524 intervention program.

525 (3) Any public or private entity providing a pretrial  
 526 substance abuse education and treatment program under this  
 527 section shall contract with the county or appropriate  
 528 governmental entity. The terms of the contract shall include,  
 529 but not be limited to, the requirements established for private  
 530 entities under s. 948.15(3).

531 Section 11. Section 985.306, Florida Statutes, is amended  
 532 to read:

533 985.306 Delinquency pretrial intervention program.--  
 534 (1)~~(a)~~ Notwithstanding any provision of law to the  
 535 contrary, a child who is charged ~~under chapter 893~~ with a felony  
 536 of the second or third degree for purchase or possession of a  
 537 controlled substance under chapter 893; tampering with evidence;  
 538 solicitation for purchase of a controlled substance; or  
 539 obtaining a prescription by fraud, and who has not previously  
 540 been adjudicated for a felony ~~nor been admitted to a delinquency~~  
 541 ~~pretrial intervention program under this section~~, is eligible  
 542 for voluntary admission into a delinquency pretrial substance  
 543 abuse education and treatment intervention program, including a  
 544 treatment-based drug court program established pursuant to s.  
 545 397.334, approved by the chief judge or alternative sanctions  
 546 coordinator of the circuit to the extent that funded programs  
 547 are available, for a period based on the program requirements  
 548 and the treatment services that are suitable for the offender ~~of~~  
 549 ~~not less than 1 year in duration~~, upon motion of either party or  
 550 the court's own motion. However, if the state attorney believes  
 551 that the facts and circumstances of the case suggest the child's  
 552 involvement in the dealing and selling of controlled substances,  
 553 the court shall hold a preadmission hearing. If the state  
 554 attorney establishes by a preponderance of the evidence at such  
 555 hearing that the child was involved in the dealing and selling  
 556 of controlled substances, the court shall deny the child's  
 557 admission into a delinquency pretrial intervention program.  
 558 (2) While enrolled in a delinquency pretrial intervention  
 559 program authorized by this section, a child is subject to a  
 560 coordinated strategy developed by a drug court team under s.

561 397.334(3). The coordinated strategy must include a protocol of  
562 sanctions that may be imposed upon the child. The protocol of  
563 sanctions must include as available options placement in a  
564 secure licensed clinical facility or placement in a secure  
565 detention facility under s. 985.216 for noncompliance with  
566 program rules. The coordinated strategy must be provided in  
567 writing to the child before the child agrees to enter the  
568 pretrial treatment-based drug court program, or other pretrial  
569 intervention program.

570 (3)(b) At the end of the delinquency pretrial intervention  
571 period, the court shall consider the recommendation of the state  
572 attorney and the program administrator as to disposition of the  
573 pending charges. The court shall determine, by written finding,  
574 whether the child has successfully completed the delinquency  
575 pretrial intervention program.

576 (e)1. If the court finds that the child has not  
577 successfully completed the delinquency pretrial intervention  
578 program, the court may order the child to continue in an  
579 education, treatment, or urine monitoring program if resources  
580 and funding are available or order that the charges revert to  
581 normal channels for prosecution.

582 2. The court may dismiss the charges upon a finding that  
583 the child has successfully completed the delinquency pretrial  
584 intervention program.

585 (4)(d) Any entity, whether public or private, providing  
586 pretrial substance abuse education, treatment intervention, and  
587 a urine monitoring program under this section must contract with  
588 the county or appropriate governmental entity, and the terms of

HB 175

2006

589 the contract must include, but need not be limited to, the  
590 requirements established for private entities under s.  
591 948.15(3). It is the intent of the Legislature that public or  
592 private entities providing substance abuse education and  
593 treatment intervention programs involve the active participation  
594 of parents, schools, churches, businesses, law enforcement  
595 agencies, and the department or its contract providers.

596 ~~(2) The chief judge in each circuit may appoint an~~  
597 ~~advisory committee for the delinquency pretrial intervention~~  
598 ~~program composed of the chief judge or designee, who shall serve~~  
599 ~~as chair; the state attorney, the public defender, and the~~  
600 ~~program administrator, or their designees; and such other~~  
601 ~~persons as the chair deems appropriate. The committee may also~~  
602 ~~include persons representing any other agencies to which~~  
603 ~~children released to the delinquency pretrial intervention~~  
604 ~~program may be referred.~~

605 Section 12. This act shall take effect upon becoming a  
606 law.