

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to drug court programs; providing a short
7 title; amending s. 39.001, F.S.; providing additional
8 legislative purposes and intent with respect to the
9 treatment of substance abuse, including the use of the
10 drug court program model; authorizing the court to require
11 certain persons to undergo treatment following
12 adjudication; amending s. 39.407, F.S.; authorizing the
13 court to order specified persons to submit to a substance
14 abuse assessment upon a showing of good cause in
15 connection with a shelter petition or petition for
16 dependency; amending ss. 39.507 and 39.521, F.S.;
17 authorizing the court to order specified persons to submit
18 to a substance abuse assessment as part of an adjudicatory
19 order or pursuant to a disposition hearing; requiring a
20 showing of good cause; authorizing the court to require
21 participation in a treatment-based drug court program;
22 authorizing the court to impose sanctions for
23 noncompliance; amending s. 39.701, F.S.; authorizing the

24 | court to extend the time for completing a case plan during
25 | judicial review, based upon participation in a treatment-
26 | based drug court program; amending s. 397.334, F.S.;
27 | revising legislative intent with respect to treatment-
28 | based drug court programs to reflect participation by
29 | community support agencies, the Department of Education,
30 | and other individuals; including postadjudicatory programs
31 | as part of treatment-based drug court programs; providing
32 | requirements and sanctions, including clinical placement
33 | or incarceration, for the coordinated strategy developed
34 | by the drug court team to encourage participant
35 | compliance; requiring each judicial circuit to establish a
36 | position for a coordinator of the treatment-based drug
37 | court program, subject to annual appropriation by the
38 | Legislature; authorizing the chief judge of each judicial
39 | circuit to appoint an advisory committee for the
40 | treatment-based drug court program; providing for
41 | membership of the committee; revising language with
42 | respect to an annual report; amending s. 910.035, F.S.;
43 | revising language with respect to conditions for the
44 | transfer of a case in the drug court treatment program to
45 | a county other than that in which the charge arose;
46 | amending ss. 948.08, 948.16, and 985.306, F.S., relating
47 | to felony, misdemeanor, and delinquency pretrial substance
48 | abuse education and treatment intervention programs;
49 | deleting a provision allowing a state attorney to deny a
50 | defendant's admission to a pretrial substance abuse
51 | education and treatment intervention program if the

HB 175

2006
CS

52 | defendant previously declined admission to such a program;
 53 | providing for application of the coordinated strategy
 54 | developed by the drug court team; removing provisions
 55 | authorizing appointment of an advisory committee, to
 56 | conform to changes made by the act; providing an effective
 57 | date.

58

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

60

61 | Section 1. This act may be cited as the "Robert J. Koch
 62 | Drug Court Intervention Act."

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

65 | 39.001 Purposes and intent; personnel standards and
 66 | screening.--

67 | (4) SUBSTANCE ABUSE SERVICES.--

68 | (a) The Legislature recognizes that early referral and
 69 | comprehensive treatment can help combat substance abuse in
 70 | families and that treatment is cost effective.

71 | (b) The Legislature establishes the following goals for
 72 | the state related to substance abuse treatment services in the
 73 | dependency process:

74 | 1. To ensure the safety of children.

75 | 2. To prevent and remediate the consequences of substance
 76 | abuse on families involved in protective supervision or foster
 77 | care and reduce substance abuse, including alcohol abuse, for
 78 | families who are at risk of being involved in protective
 79 | supervision or foster care.

80 3. To expedite permanency for children and reunify
81 healthy, intact families, when appropriate.

82 4. To support families in recovery.

83 (c) The Legislature finds that children in the care of the
84 state's dependency system need appropriate health care services,
85 that the impact of substance abuse on health indicates the need
86 for health care services to include substance abuse services to
87 children and parents where appropriate, and that it is in the
88 state's best interest that such children be provided the
89 services they need to enable them to become and remain
90 independent of state care. In order to provide these services,
91 the state's dependency system must have the ability to identify
92 and provide appropriate intervention and treatment for children
93 with personal or family-related substance abuse problems.

94 (d) It is the intent of the Legislature to encourage the
95 use of the drug court program model established by s. 397.334
96 and authorize courts to assess parents and children where good
97 cause is shown to identify and address substance abuse problems
98 as the court deems appropriate at every stage of the dependency
99 process. Participation in treatment, including a treatment-based
100 drug court program, may be required by the court following
101 adjudication. Participation in assessment and treatment prior to
102 adjudication shall be voluntary, except as provided in s.
103 39.407(16).

104 (e) It is therefore the purpose of the Legislature to
105 provide authority for the state to contract with community
106 substance abuse treatment providers for the development and
107 operation of specialized support and overlay services for the

HB 175

2006
CS

108 dependency system, which will be fully implemented and used
109 ~~utilized~~ as resources permit.

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

115 Section 3. Subsection (15) of section 39.407, Florida
116 Statutes, is amended, and subsection (16) is added to that
117 section, to read:

118 39.407 Medical, psychiatric, and psychological examination
119 and treatment of child; physical, ~~or~~ mental, or substance abuse
120 examination of ~~parent or~~ person with or requesting child custody
121 of child.--

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

131 (16) At any time after a shelter petition or petition for
132 dependency is filed, the court may order a child or a person who
133 has custody or is requesting custody of the child to submit to a
134 substance abuse assessment and evaluation. The assessment and
135 evaluation must be administered by a qualified professional, as

136 defined in s. 397.311. The order may be made only upon good
 137 cause shown. This subsection shall not be construed to authorize
 138 placement of a child with a person seeking custody, other than
 139 the parent or legal custodian, who requires substance abuse
 140 treatment.

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

143 39.507 Adjudicatory hearings; orders of adjudication.--

144 (9) After an adjudication of dependency, or a finding of
 145 dependency where adjudication is withheld, the court may order a
 146 child or a person who has custody or is requesting custody of
 147 the child to submit to a substance abuse assessment or
 148 evaluation. The assessment or evaluation must be administered by
 149 a qualified professional, as defined in s. 397.311. The court
 150 may also require such person to participate in and comply with
 151 treatment and services identified as necessary, including, when
 152 appropriate and available, participation in and compliance with
 153 a treatment-based drug court program established under s.
 154 397.334. In addition to supervision by the department, the
 155 court, including the treatment-based drug court program, may
 156 oversee the progress and compliance with treatment by the child
 157 or a person who has custody or is requesting custody of the
 158 child. The court may impose appropriate available sanctions for
 159 noncompliance upon the child or a person who has custody or is
 160 requesting custody of the child or make a finding of
 161 noncompliance for consideration in determining whether an
 162 alternative placement of the child is in the child's best
 163 interests. Any order entered under this subsection may be made

HB 175

2006
CS

164 only upon good cause shown. This subsection shall not be
 165 construed to authorize placement of a child with a person
 166 seeking custody, other than the parent or legal custodian, who
 167 requires substance abuse treatment.

168 Section 5. Paragraph (b) of subsection (1) of section
 169 39.521, Florida Statutes, is amended to read:

170 39.521 Disposition hearings; powers of disposition.--

171 (1) A disposition hearing shall be conducted by the court,
 172 if the court finds that the facts alleged in the petition for
 173 dependency were proven in the adjudicatory hearing, or if the
 174 parents or legal custodians have consented to the finding of
 175 dependency or admitted the allegations in the petition, have
 176 failed to appear for the arraignment hearing after proper
 177 notice, or have not been located despite a diligent search
 178 having been conducted.

179 (b) When any child is adjudicated by a court to be
 180 dependent, the court having jurisdiction of the child has the
 181 power by order to:

182 1. Require the parent and, when appropriate, the legal
 183 custodian and the child, to participate in treatment and
 184 services identified as necessary. The court may require the
 185 child or the person who has custody or who is requesting custody
 186 of the child to submit to a substance abuse assessment or
 187 evaluation. The assessment or evaluation must be administered by
 188 a qualified professional, as defined in s. 397.311. The court
 189 may also require such person to participate in and comply with
 190 treatment and services identified as necessary, including, when
 191 appropriate and available, participation in and compliance with

192 | a treatment-based drug court program established under s.
 193 | 397.334. In addition to supervision by the department, the
 194 | court, including the treatment-based drug court program, may
 195 | oversee the progress and compliance with treatment by the child
 196 | or a person who has custody or is requesting custody of the
 197 | child. The court may impose appropriate available sanctions for
 198 | noncompliance upon the child or a person who has custody or is
 199 | requesting custody of the child or make a finding of
 200 | noncompliance for consideration in determining whether an
 201 | alternative placement of the child is in the child's best
 202 | interests. Any order entered under this subparagraph may be made
 203 | only upon good cause shown. This subparagraph shall not be
 204 | construed to authorize placement of a child with a person
 205 | seeking custody of the child, other than the child's parent or
 206 | legal custodian, who requires substance abuse treatment.

207 | 2. Require, if the court deems necessary, the parties to
 208 | participate in dependency mediation.

209 | 3. Require placement of the child either under the
 210 | protective supervision of an authorized agent of the department
 211 | in the home of one or both of the child's parents or in the home
 212 | of a relative of the child or another adult approved by the
 213 | court, or in the custody of the department. Protective
 214 | supervision continues until the court terminates it or until the
 215 | child reaches the age of 18, whichever date is first. Protective
 216 | supervision shall be terminated by the court whenever the court
 217 | determines that permanency has been achieved for the child,
 218 | whether with a parent, another relative, or a legal custodian,
 219 | and that protective supervision is no longer needed. The

HB 175

2006
CS

220 termination of supervision may be with or without retaining
 221 jurisdiction, at the court's discretion, and shall in either
 222 case be considered a permanency option for the child. The order
 223 terminating supervision by the department shall set forth the
 224 powers of the custodian of the child and shall include the
 225 powers ordinarily granted to a guardian of the person of a minor
 226 unless otherwise specified. Upon the court's termination of
 227 supervision by the department, no further judicial reviews are
 228 required, so long as permanency has been established for the
 229 child.

230 Section 6. Paragraph (d) of subsection (9) of section
 231 39.701, Florida Statutes, is amended to read:

232 39.701 Judicial review.--

233 (9)

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

HB 175

2006
CS

248 39.601. Any extension of a case plan must comply with the time
249 requirements and other requirements specified by this chapter.

250 Section 7. Section 397.334, Florida Statutes, is amended
251 to read:

252 397.334 Treatment-based drug court programs.--

253 (1) Each county may fund a treatment-based drug court
254 program under which persons in the justice system assessed with
255 a substance abuse problem will be processed in such a manner as
256 to appropriately address the severity of the identified
257 substance abuse problem through treatment services plans
258 tailored to the individual needs of the participant. It is the
259 intent of the Legislature to encourage the Department of
260 Corrections, the Department of Children and Family Services, the
261 Department of Juvenile Justice, the Department of Health, the
262 Department of Law Enforcement, the Department of Education, and
263 such ~~other~~ agencies, local governments, law enforcement
264 agencies, ~~and~~ other interested public or private sources, and
265 individuals to support the creation and establishment of these
266 problem-solving court programs. Participation in the treatment-
267 based drug court programs does not divest any public or private
268 agency of its responsibility for a child or adult, but enables
269 ~~allows~~ these agencies to better meet their needs through shared
270 responsibility and resources.

271 (2) Entry into any pretrial treatment-based drug court
272 program shall be voluntary. The court may only order an
273 individual to enter into a pretrial treatment-based drug court
274 program upon written agreement by the individual, which shall
275 include a statement that the individual understands the

276 | requirements of the program and the potential sanctions for
 277 | noncompliance.

278 | ~~(3)~~⁽²⁾ The treatment-based drug court programs shall
 279 | include therapeutic jurisprudence principles and adhere to the
 280 | following 10 key components, recognized by the Drug Courts
 281 | Program Office of the Office of Justice Programs of the United
 282 | States Department of Justice and adopted by the Florida Supreme
 283 | Court Treatment-Based Drug Court Steering Committee:

284 | (a) Drug court programs integrate alcohol and other drug
 285 | treatment services with justice system case processing.

286 | (b) Using a nonadversarial approach, prosecution and
 287 | defense counsel promote public safety while protecting
 288 | participants' due process rights.

289 | (c) Eligible participants are identified early and
 290 | promptly placed in the drug court program.

291 | (d) Drug court programs provide access to a continuum of
 292 | alcohol, drug, and other related treatment and rehabilitation
 293 | services.

294 | (e) Abstinence is monitored by frequent testing for
 295 | alcohol and other drugs.

296 | (f) A coordinated strategy governs drug court program
 297 | responses to participants' compliance.

298 | (g) Ongoing judicial interaction with each drug court
 299 | program participant is essential.

300 | (h) Monitoring and evaluation measure the achievement of
 301 | program goals and gauge program effectiveness.

302 (i) Continuing interdisciplinary education promotes
 303 effective drug court program planning, implementation, and
 304 operations.

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

308 ~~(4)(3)~~ Treatment-based drug court programs may include
 309 pretrial intervention programs as provided in ss. 948.08,
 310 948.16, and 985.306, treatment-based drug court programs
 311 authorized in chapter 39, postadjudicatory programs, and the
 312 monitoring of sentenced offenders through a treatment-based drug
 313 court program. While enrolled in any treatment-based drug court
 314 program, the participant is subject to a coordinated strategy
 315 developed by the drug court team under paragraph (3)(f). Each
 316 coordinated strategy may include a protocol of sanctions that
 317 may be imposed upon the participant. The protocol of sanctions
 318 for treatment-based programs other than those authorized in
 319 chapter 39 must include, and the protocol of sanctions for
 320 treatment-based drug court programs authorized in chapter 39 may
 321 include, as available options placement in a secure licensed
 322 clinical or jail-based treatment program or serving a period of
 323 incarceration for noncompliance with program rules within the
 324 time limits established for contempt of court. The coordinated
 325 strategy must be provided in writing to the participant before
 326 the participant agrees to enter into a pretrial treatment-based
 327 drug court program. Any person whose charges are dismissed after
 328 successful completion of the treatment-based drug court program,
 329 if otherwise eligible, may have his or her arrest record and

HB 175

2006
CS

330 plea of nolo contendere to the dismissed charges expunged under
331 s. 943.0585.

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

343 (6)(4)(a) The Florida Association of Drug Court ~~Program~~
344 Professionals is created. The membership of the association may
345 consist of treatment-based drug court program practitioners who
346 comprise the multidisciplinary treatment-based drug court
347 program team, including, but not limited to, judges, state
348 attorneys, defense counsel, treatment-based drug court program
349 coordinators, probation officers, law enforcement officers,
350 community representatives, members of the academic community,
351 and treatment professionals. Membership in the association shall
352 be voluntary.

353 (b) The association shall annually elect a chair whose
354 duty is to solicit recommendations from members on issues
355 relating to the expansion, operation, and institutionalization
356 of treatment-based drug court programs. The chair is responsible
357 for providing on or before October 1 of each year the

HB 175

2006
CS

358 association's recommendations and an annual report to the
 359 appropriate Supreme Court ~~Treatment-Based Drug Court Steering~~
 360 committee or to the appropriate personnel of the Office of the
 361 State Courts Administrator, ~~and shall submit a report each year,~~
 362 ~~on or before October 1, to the steering committee.~~

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

371 (8) The chief judge of each judicial circuit may appoint
 372 an advisory committee for the treatment-based drug court
 373 program. The committee shall be composed of the chief judge, or
 374 his or her designee, who shall serve as chair; the judge of the
 375 treatment-based drug court program, if not otherwise designated
 376 by the chief judge as his or her designee; the state attorney,
 377 or his or her designee; the public defender, or his or her
 378 designee; the treatment-based drug court program coordinators;
 379 community representatives; treatment representatives; and any
 380 other persons the chair finds are appropriate.

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

383 910.035 Transfer from county for plea and sentence.--

384 (5) Any person eligible for participation in a drug court
 385 treatment program pursuant to s. 948.08(6) may be eligible to

HB 175

2006
CS

386 | have the case transferred to a county other than that in which
 387 | the charge arose if the drug court program agrees and if the
 388 | following conditions are met:

389 | (b) If approval for transfer is received from all parties,
 390 | the trial court shall accept a plea of nolo contendere and enter
 391 | a transfer order directing the clerk to transfer the case to the
 392 | county which has accepted the defendant into its drug court
 393 | program.

394 | (e) Upon successful completion of the drug court program,
 395 | the jurisdiction to which the case has been transferred shall
 396 | dispose of the case pursuant to s. 948.08(6). If the defendant
 397 | does not complete the drug court program successfully, the
 398 | jurisdiction to which the case has been transferred shall
 399 | dispose of the case within the guidelines of the Criminal
 400 | Punishment Code ~~case shall be prosecuted as determined by the~~
 401 | ~~state attorneys of the sending and receiving counties.~~

402 | Section 9. Subsections (6), (7), and (8) of section
 403 | 948.08, Florida Statutes, are amended to read:

404 | 948.08 Pretrial intervention program.--

405 | (6)(a) Notwithstanding any provision of this section, a
 406 | person who is charged with a felony of the second or third
 407 | degree for purchase or possession of a controlled substance
 408 | under chapter 893, prostitution, tampering with evidence,
 409 | solicitation for purchase of a controlled substance, or
 410 | obtaining a prescription by fraud; who has not been charged with
 411 | a crime involving violence, including, but not limited to,
 412 | murder, sexual battery, robbery, carjacking, home-invasion
 413 | robbery, or any other crime involving violence; and who has not

HB 175

2006
CS

414 previously been convicted of a felony nor been admitted to a
415 felony pretrial program referred to in this section is eligible
416 for voluntary admission into a pretrial substance abuse
417 education and treatment intervention program, including a
418 treatment-based drug court program established pursuant to s.
419 397.334, approved by the chief judge of the circuit, for a
420 period of not less than 1 year in duration, upon motion of
421 either party or the court's own motion, except:

422 ~~1. If a defendant was previously offered admission to a~~
423 ~~pretrial substance abuse education and treatment intervention~~
424 ~~program at any time prior to trial and the defendant rejected~~
425 ~~that offer on the record, then the court or the state attorney~~
426 ~~may deny the defendant's admission to such a program.~~

427 ~~2.~~ if the state attorney believes that the facts and
428 circumstances of the case suggest the defendant's involvement in
429 the dealing and selling of controlled substances, the court
430 shall hold a preadmission hearing. If the state attorney
431 establishes, by a preponderance of the evidence at such hearing,
432 that the defendant was involved in the dealing or selling of
433 controlled substances, the court shall deny the defendant's
434 admission into a pretrial intervention program.

435 (b) While enrolled in a pretrial intervention program
436 authorized by this section, the participant is subject to a
437 coordinated strategy developed by a drug court team under s.
438 397.334(3). The coordinated strategy may include a protocol of
439 sanctions that may be imposed upon the participant. The protocol
440 of sanctions must include as available options placement in a
441 secure licensed clinical or jail-based treatment program or

HB 175

2006
CS

442 serving a period of incarceration for noncompliance with program
 443 rules within the time limits established for contempt of court.
 444 The coordinated strategy must be provided in writing to the
 445 participant before the participant agrees to enter into a
 446 pretrial treatment-based drug court program, or other pretrial
 447 intervention program.

448 ~~(c)(b)~~ At the end of the pretrial intervention period, the
 449 court shall consider the recommendation of the administrator
 450 pursuant to subsection (5) and the recommendation of the state
 451 attorney as to disposition of the pending charges. The court
 452 shall determine, by written finding, whether the defendant has
 453 successfully completed the pretrial intervention program.

454 ~~(c)1.~~ If the court finds that the defendant has not
 455 successfully completed the pretrial intervention program, the
 456 court may order the person to continue in education and
 457 treatment, which may include secure licensed clinical or jail-
 458 based treatment programs, or order that the charges revert to
 459 normal channels for prosecution.

460 ~~2.~~ The court shall dismiss the charges upon a finding that
 461 the defendant has successfully completed the pretrial
 462 intervention program.

463 (d) Any entity, whether public or private, providing a
 464 pretrial substance abuse education and treatment intervention
 465 program under this subsection must contract with the county or
 466 appropriate governmental entity, and the terms of the contract
 467 must include, but need not be limited to, the requirements
 468 established for private entities under s. 948.15(3).

HB 175

2006
CS

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

481 ~~(7)(8)~~ The department may contract for the services and
 482 facilities necessary to operate pretrial intervention programs.

483 Section 10. Section 948.16, Florida Statutes, is amended
 484 to read:

485 948.16 Misdemeanor pretrial substance abuse education and
 486 treatment intervention program.--

487 (1)(a) A person who is charged with a misdemeanor for
 488 possession of a controlled substance or drug paraphernalia under
 489 chapter 893, and who has not previously been convicted of a
 490 felony nor been admitted to a pretrial program, is eligible for
 491 voluntary admission into a misdemeanor pretrial substance abuse
 492 education and treatment intervention program, including a
 493 treatment-based drug court program established pursuant to s.
 494 397.334, approved by the chief judge of the circuit, for a
 495 period based on the program requirements and the treatment plan
 496 for the offender, upon motion of either party or the court's own

497 motion, except, if the state attorney believes the facts and
 498 circumstances of the case suggest the defendant is involved in
 499 dealing and selling controlled substances, the court shall hold
 500 a preadmission hearing. If the state attorney establishes, by a
 501 preponderance of the evidence at such hearing, that the
 502 defendant was involved in dealing or selling controlled
 503 substances, the court shall deny the defendant's admission into
 504 the pretrial intervention program.

505 (b) While enrolled in a pretrial intervention program
 506 authorized by this section, the participant is subject to a
 507 coordinated strategy developed by a drug court team under s.
 508 397.334(3). The coordinated strategy may include a protocol of
 509 sanctions that may be imposed upon the participant. The protocol
 510 of sanctions must include as available options placement in a
 511 secure licensed clinical or jail-based treatment program or
 512 serving a period of incarceration for noncompliance with program
 513 rules within the time limits established for contempt of court.
 514 The coordinated strategy must be provided in writing to the
 515 participant before the participant agrees to enter into a
 516 pretrial treatment-based drug court program, or other pretrial
 517 intervention program.

518 (2) At the end of the pretrial intervention period, the
 519 court shall consider the recommendation of the treatment program
 520 and the recommendation of the state attorney as to disposition
 521 of the pending charges. The court shall determine, by written
 522 finding, whether the defendant successfully completed the
 523 pretrial intervention program.

HB 175

2006
CS

524 ~~(a)~~ If the court finds that the defendant has not
525 successfully completed the pretrial intervention program, the
526 court may order the person to continue in education and
527 treatment or return the charges to the criminal docket for
528 prosecution.

529 ~~(b)~~ The court shall dismiss the charges upon finding that
530 the defendant has successfully completed the pretrial
531 intervention program.

532 (3) Any public or private entity providing a pretrial
533 substance abuse education and treatment program under this
534 section shall contract with the county or appropriate
535 governmental entity. The terms of the contract shall include,
536 but not be limited to, the requirements established for private
537 entities under s. 948.15(3).

538 Section 11. Section 985.306, Florida Statutes, is amended
539 to read:

540 985.306 Delinquency pretrial intervention program.--

541 (1)~~(a)~~ Notwithstanding any provision of law to the
542 contrary, a child who is charged ~~under chapter 893~~ with a felony
543 of the second or third degree for purchase or possession of a
544 controlled substance under chapter 893; tampering with evidence;
545 solicitation for purchase of a controlled substance; or
546 obtaining a prescription by fraud, and who has not previously
547 been adjudicated for a felony ~~nor been admitted to a delinquency~~
548 ~~pretrial intervention program under this section~~, is eligible
549 for voluntary admission into a delinquency pretrial substance
550 abuse education and treatment intervention program, including a
551 treatment-based drug court program established pursuant to s.

HB 175

2006
CS

552 397.334, approved by the chief judge or alternative sanctions
 553 coordinator of the circuit to the extent that funded programs
 554 are available, for a period based on the program requirements
 555 and the treatment services that are suitable for the offender ~~of~~
 556 ~~not less than 1 year in duration~~, upon motion of either party or
 557 the court's own motion. However, if the state attorney believes
 558 that the facts and circumstances of the case suggest the child's
 559 involvement in the dealing and selling of controlled substances,
 560 the court shall hold a preadmission hearing. If the state
 561 attorney establishes by a preponderance of the evidence at such
 562 hearing that the child was involved in the dealing and selling
 563 of controlled substances, the court shall deny the child's
 564 admission into a delinquency pretrial intervention program.

565 (2) While enrolled in a delinquency pretrial intervention
 566 program authorized by this section, a child is subject to a
 567 coordinated strategy developed by a drug court team under s.
 568 397.334(3). The coordinated strategy may include a protocol of
 569 sanctions that may be imposed upon the child. The protocol of
 570 sanctions must include as available options placement in a
 571 secure licensed clinical facility or placement in a secure
 572 detention facility under s. 985.216 for noncompliance with
 573 program rules. The coordinated strategy must be provided in
 574 writing to the child before the child agrees to enter the
 575 pretrial treatment-based drug court program, or other pretrial
 576 intervention program.

577 (3)(b) At the end of the delinquency pretrial intervention
 578 period, the court shall consider the recommendation of the state
 579 attorney and the program administrator as to disposition of the

HB 175

2006
CS

580 pending charges. The court shall determine, by written finding,
581 whether the child has successfully completed the delinquency
582 pretrial intervention program.

583 ~~(e)~~1. If the court finds that the child has not
584 successfully completed the delinquency pretrial intervention
585 program, the court may order the child to continue in an
586 education, treatment, or urine monitoring program if resources
587 and funding are available or order that the charges revert to
588 normal channels for prosecution.

589 ~~2.~~ The court may dismiss the charges upon a finding that
590 the child has successfully completed the delinquency pretrial
591 intervention program.

592 ~~(4)~~(d) Any entity, whether public or private, providing
593 pretrial substance abuse education, treatment intervention, and
594 a urine monitoring program under this section must contract with
595 the county or appropriate governmental entity, and the terms of
596 the contract must include, but need not be limited to, the
597 requirements established for private entities under s.
598 948.15(3). It is the intent of the Legislature that public or
599 private entities providing substance abuse education and
600 treatment intervention programs involve the active participation
601 of parents, schools, churches, businesses, law enforcement
602 agencies, and the department or its contract providers.

603 ~~(2) The chief judge in each circuit may appoint an~~
604 ~~advisory committee for the delinquency pretrial intervention~~
605 ~~program composed of the chief judge or designee, who shall serve~~
606 ~~as chair; the state attorney, the public defender, and the~~
607 ~~program administrator, or their designees; and such other~~

HB 175

2006
CS

608 | ~~persons as the chair deems appropriate. The committee may also~~
609 | ~~include persons representing any other agencies to which~~
610 | ~~children released to the delinquency pretrial intervention~~
611 | ~~program may be referred.~~

612 | Section 12. This act shall take effect upon becoming a
613 | law.