

CHAMBER ACTION

1 The Juvenile 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 treatment by
33 specified licensed service providers, jail-based
34 treatment, secure detention, or incarceration, for the
35 coordinated strategy developed by the drug court team to
36 encourage participant compliance; requiring each judicial
37 circuit to establish a position for a coordinator of the
38 treatment-based drug court program, subject to annual
39 appropriation by the Legislature; authorizing the chief
40 judge of each judicial circuit to appoint an advisory
41 committee for the treatment-based drug court program;
42 providing for membership of the committee; revising
43 language with respect to an annual report; amending s.
44 910.035, F.S.; revising language with respect to
45 conditions for the transfer of a case in the drug court
46 treatment program to a county other than that in which the
47 charge arose; amending ss. 948.08, 948.16, and 985.306,
48 F.S., relating to felony, misdemeanor, and delinquency
49 pretrial substance abuse education and treatment
50 intervention programs; deleting a provision allowing a
51 state attorney to deny a defendant's admission to a

HB 175 CS

2006
CS

52 pretrial substance abuse education and treatment
53 intervention program if the defendant previously declined
54 admission to such a program; providing for application of
55 the coordinated strategy developed by the drug court team;
56 removing provisions authorizing appointment of an advisory
57 committee, to conform to changes made by the act;
58 providing an effective date.
59

60 Be It Enacted by the Legislature of the State of Florida:
61

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

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

66 39.001 Purposes and intent; personnel standards and
67 screening.--

68 (4) SUBSTANCE ABUSE SERVICES.--

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

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

75 1. To ensure the safety of children.

76 2. To prevent and remediate the consequences of substance
77 abuse on families involved in protective supervision or foster
78 care and reduce substance abuse, including alcohol abuse, for

79 families who are at risk of being involved in protective
 80 supervision or foster care.

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

83 4. To support families in recovery.

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

95 (d) It is the intent of the Legislature to encourage the
 96 use of the drug court program model established by s. 397.334
 97 and authorize courts to assess parents and children where good
 98 cause is shown to identify and address substance abuse problems
 99 as the court deems appropriate at every stage of the dependency
 100 process. Participation in treatment, including a treatment-based
 101 drug court program, may be required by the court following
 102 adjudication. Participation in assessment and treatment prior to
 103 adjudication shall be voluntary, except as provided in s.
 104 39.407(16).

105 (e) It is therefore the purpose of the Legislature to
 106 provide authority for the state to contract with community

107 substance abuse treatment providers for the development and
 108 operation of specialized support and overlay services for the
 109 dependency system, which will be fully implemented and used
 110 ~~utilized~~ as resources permit.

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

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

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

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

132 (16) At any time after a shelter petition or petition for
 133 dependency is filed, the court may order a child or a person who
 134 has custody or is requesting custody of the child to submit to a

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

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

144 39.507 Adjudicatory hearings; orders of adjudication.--

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

HB 175 CS

2006
CS

163 alternative placement of the child is in the child's best
164 interests. Any order entered under this subsection may be made
165 only upon good cause shown. This subsection shall not be
166 construed to authorize placement of a child with a person
167 seeking custody, other than the parent or legal custodian, who
168 requires substance abuse treatment.

169 Section 5. Paragraph (b) of subsection (1) of section
170 39.521, Florida Statutes, is amended to read:

171 39.521 Disposition hearings; powers of disposition.--

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

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

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

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

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

210 3. Require placement of the child either under the
 211 protective supervision of an authorized agent of the department
 212 in the home of one or both of the child's parents or in the home
 213 of a relative of the child or another adult approved by the
 214 court, or in the custody of the department. Protective
 215 supervision continues until the court terminates it or until the
 216 child reaches the age of 18, whichever date is first. Protective
 217 supervision shall be terminated by the court whenever the court
 218 determines that permanency has been achieved for the child,

HB 175 CS

2006
CS

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

231 Section 6. Paragraph (d) of subsection (9) of section
 232 39.701, Florida Statutes, is amended to read:

233 39.701 Judicial review.--

234 (9)

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

247 authorize the expansion or restriction of future visitation.
 248 Modifications to the plan must be handled as prescribed in s.
 249 39.601. Any extension of a case plan must comply with the time
 250 requirements and other requirements specified by this chapter.

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

253 397.334 Treatment-based drug court programs.--

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

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

275 program upon written agreement by the individual, which shall
 276 include a statement that the individual understands the
 277 requirements of the program and the potential sanctions for
 278 noncompliance.

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

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

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

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

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

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

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

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

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

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

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

309 ~~(4)(3)~~ Treatment-based drug court programs may include
310 pretrial intervention programs as provided in ss. 948.08,
311 948.16, and 985.306, treatment-based drug court programs
312 authorized in chapter 39, postadjudicatory programs, and the
313 monitoring of sentenced offenders through a treatment-based drug
314 court program. While enrolled in any treatment-based drug court
315 program, the participant is subject to a coordinated strategy
316 developed by the drug court team under paragraph (3)(f). Each
317 coordinated strategy may include a protocol of sanctions that
318 may be imposed upon the participant for noncompliance with
319 program rules. The protocol of sanctions for treatment-based
320 programs may include, but is not limited to, placement in a
321 substance abuse treatment program offered by a licensed service
322 provider as defined in s. 397.311 or in a jail-based treatment
323 program or serving a period of secure detention under chapter
324 985 if a child or a period of incarceration within the time
325 limits established for contempt of court if an adult. The
326 coordinated strategy must be provided in writing to the
327 participant before the participant agrees to enter into a
328 pretrial treatment-based drug court program. Any person whose
329 charges are dismissed after successful completion of the
330 treatment-based drug court program, if otherwise eligible, may

331 have his or her arrest record and plea of nolo contendere to the
332 dismissed charges expunged under s. 943.0585.

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

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

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

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

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

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

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

384 910.035 Transfer from county for plea and sentence.--

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

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

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

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

403 Section 9. Subsections (6), (7), and (8) of section
 404 948.08, Florida Statutes, are amended to read:

405 948.08 Pretrial intervention program.--

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

HB 175 CS

2006
CS

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

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

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

436 (b) While enrolled in a pretrial intervention program
437 authorized by this section, the participant is subject to a
438 coordinated strategy developed by a drug court team under s.
439 397.334(3). The coordinated strategy may include a protocol of
440 sanctions that may be imposed upon the participant for
441 noncompliance with program rules. The protocol of sanctions may
442 include, but is not limited to, placement in a substance abuse

443 treatment program offered by a licensed service provider as
444 defined in s. 397.311 or in a jail-based treatment program or
445 -serving a period of incarceration within the time limits
446 established for contempt of court. The coordinated strategy must
447 be provided in writing to the participant before the participant
448 agrees to enter into a pretrial treatment-based drug court
449 program or other pretrial intervention program.

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

456 ~~(e)1.~~ If the court finds that the defendant has not
457 successfully completed the pretrial intervention program, the
458 court may order the person to continue in education and
459 treatment, which may include substance abuse treatment programs
460 offered by licensed service providers as defined in s. 397.311
461 or jail-based treatment programs, or order that the charges
462 revert to normal channels for prosecution.

463 ~~2.~~ The court shall dismiss the charges upon a finding that
464 the defendant has successfully completed the pretrial
465 intervention program.

466 (d) Any entity, whether public or private, providing a
467 pretrial substance abuse education and treatment intervention
468 program under this subsection must contract with the county or
469 appropriate governmental entity, and the terms of the contract

HB 175 CS

2006
CS

470 must include, but need not be limited to, the requirements
471 established for private entities under s. 948.15(3).

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

484 (7)~~(8)~~ The department may contract for the services and
485 facilities necessary to operate pretrial intervention programs.

486 Section 10. Section 948.16, Florida Statutes, is amended
487 to read:

488 948.16 Misdemeanor pretrial substance abuse education and
489 treatment intervention program.--

490 (1)(a) A person who is charged with a misdemeanor for
491 possession of a controlled substance or drug paraphernalia under
492 chapter 893, and who has not previously been convicted of a
493 felony nor been admitted to a pretrial program, is eligible for
494 voluntary admission into a misdemeanor pretrial substance abuse
495 education and treatment intervention program, including a
496 treatment-based drug court program established pursuant to s.
497 397.334, approved by the chief judge of the circuit, for a

498 period based on the program requirements and the treatment plan
499 for the offender, upon motion of either party or the court's own
500 motion, except, if the state attorney believes the facts and
501 circumstances of the case suggest the defendant is involved in
502 dealing and selling controlled substances, the court shall hold
503 a preadmission hearing. If the state attorney establishes, by a
504 preponderance of the evidence at such hearing, that the
505 defendant was involved in dealing or selling controlled
506 substances, the court shall deny the defendant's admission into
507 the pretrial intervention program.

508 (b) While enrolled in a pretrial intervention program
509 authorized by this section, the participant is subject to a
510 coordinated strategy developed by a drug court team under s.
511 397.334(3). The coordinated strategy may include a protocol of
512 sanctions that may be imposed upon the participant for
513 noncompliance with program rules. The protocol of sanctions may
514 include, but is not limited to, placement in a substance abuse
515 treatment program offered by a licensed service provider as
516 defined in s. 397.311 or in a jail-based treatment program or
517 -serving a period of incarceration within the time limits
518 established for contempt of court. The coordinated strategy must
519 be provided in writing to the participant before the participant
520 agrees to enter into a pretrial treatment-based drug court
521 program or other pretrial intervention program.

522 (2) At the end of the pretrial intervention period, the
523 court shall consider the recommendation of the treatment program
524 and the recommendation of the state attorney as to disposition
525 of the pending charges. The court shall determine, by written

HB 175 CS

2006
CS

526 finding, whether the defendant successfully completed the
527 pretrial intervention program.

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

533 ~~(b)~~ The court shall dismiss the charges upon finding that
534 the defendant has successfully completed the pretrial
535 intervention program.

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

542 Section 11. Section 985.306, Florida Statutes, is amended
543 to read:

544 985.306 Delinquency pretrial intervention program.--

545 (1)~~(a)~~ Notwithstanding any provision of law to the
546 contrary, a child who is charged ~~under chapter 893~~ with a felony
547 of the second or third degree for purchase or possession of a
548 controlled substance under chapter 893; tampering with evidence;
549 solicitation for purchase of a controlled substance; or
550 obtaining a prescription by fraud, and who has not previously
551 been adjudicated for a felony ~~nor been admitted to a delinquency~~
552 ~~pretrial intervention program under this section~~, is eligible
553 for voluntary admission into a delinquency pretrial substance

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

569 (2) While enrolled in a delinquency pretrial intervention
570 program authorized by this section, a child is subject to a
571 coordinated strategy developed by a drug court team under s.
572 397.334(3). The coordinated strategy may include a protocol of
573 sanctions that may be imposed upon the child for noncompliance
574 with program rules. The protocol of sanctions may include, but
575 is not limited to, placement in a substance abuse treatment
576 program offered by a licensed service provider as defined in s.
577 397.311 or serving a period of secure detention under this
578 chapter. The coordinated strategy must be provided in writing to
579 the child before the child agrees to enter the pretrial
580 treatment-based drug court program or other pretrial
581 intervention program.

582 (3)~~(b)~~ At the end of the delinquency pretrial intervention
583 period, the court shall consider the recommendation of the state
584 attorney and the program administrator as to disposition of the
585 pending charges. The court shall determine, by written finding,
586 whether the child has successfully completed the delinquency
587 pretrial intervention program.

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

594 ~~2.~~ The court may dismiss the charges upon a finding that
595 the child has successfully completed the delinquency pretrial
596 intervention program.

597 (4)~~(d)~~ Any entity, whether public or private, providing
598 pretrial substance abuse education, treatment intervention, and
599 a urine monitoring program under this section must contract with
600 the county or appropriate governmental entity, and the terms of
601 the contract must include, but need not be limited to, the
602 requirements established for private entities under s.
603 948.15(3). It is the intent of the Legislature that public or
604 private entities providing substance abuse education and
605 treatment intervention programs involve the active participation
606 of parents, schools, churches, businesses, law enforcement
607 agencies, and the department or its contract providers.

608 ~~(2) The chief judge in each circuit may appoint an~~
609 ~~advisory committee for the delinquency pretrial intervention~~

HB 175 CS

2006
CS

610 ~~program composed of the chief judge or designee, who shall serve~~
611 ~~as chair; the state attorney, the public defender, and the~~
612 ~~program administrator, or their designees; and such other~~
613 ~~persons as the chair deems appropriate. The committee may also~~
614 ~~include persons representing any other agencies to which~~
615 ~~children released to the delinquency pretrial intervention~~
616 ~~program may be referred.~~

617 Section 12. This act shall take effect upon becoming a
618 law.