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HB 175, Engrossed 1

2006 Legislature

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 or evaluation upon a showing of good  
11          cause in connection with a shelter petition or petition  
12          for 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. 397.334, F.S.; revising  
20          legislative intent with respect to treatment-based drug  
21          court programs to reflect participation by community  
22          support agencies, the Department of Education, and other  
23          individuals; including postadjudicatory programs as part  
24          of treatment-based drug court programs; providing  
25          requirements and sanctions, including treatment by  
26          specified licensed service providers, jail-based  
27          treatment, secure detention, or incarceration, for the

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

49  
 50 Be It Enacted by the Legislature of the State of Florida:

51  
 52 Section 1. This act may be cited as the "Robert J. Koch  
 53 Drug Court Intervention Act."

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

56 39.001 Purposes and intent; personnel standards and  
 57 screening.--

58 (4) SUBSTANCE ABUSE SERVICES.--

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

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

65 1. To ensure the safety of children.

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

71 3. To expedite permanency for children and reunify  
 72 healthy, intact families, when appropriate.

73 4. To support families in recovery.

74 (c) The Legislature finds that children in the care of the  
 75 state's dependency system need appropriate health care services,  
 76 that the impact of substance abuse on health indicates the need  
 77 for health care services to include substance abuse services to  
 78 children and parents where appropriate, and that it is in the  
 79 state's best interest that such children be provided the  
 80 services they need to enable them to become and remain

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81 independent of state care. In order to provide these services,  
82 the state's dependency system must have the ability to identify  
83 and provide appropriate intervention and treatment for children  
84 with personal or family-related substance abuse problems.

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

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

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

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

110 39.407 Medical, psychiatric, and psychological examination  
 111 and treatment of child; physical, ~~or~~ mental, or substance abuse  
 112 examination of parent or person with or requesting child custody  
 113 of child.--

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

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

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

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134 39.507 Adjudicatory hearings; orders of adjudication.--

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

158 Section 5. Paragraph (b) of subsection (1) of section  
159 39.521, Florida Statutes, is amended to read:

160 39.521 Disposition hearings; powers of disposition.--

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161 (1) A disposition hearing shall be conducted by the court,  
162 if the court finds that the facts alleged in the petition for  
163 dependency were proven in the adjudicatory hearing, or if the  
164 parents or legal custodians have consented to the finding of  
165 dependency or admitted the allegations in the petition, have  
166 failed to appear for the arraignment hearing after proper  
167 notice, or have not been located despite a diligent search  
168 having been conducted.

169 (b) When any child is adjudicated by a court to be  
170 dependent, the court having jurisdiction of the child has the  
171 power by order to:

172 1. Require the parent and, when appropriate, the legal  
173 custodian and the child, to participate in treatment and  
174 services identified as necessary. The court may require the  
175 person who has custody or who is requesting custody of the child  
176 to submit to a substance abuse assessment or evaluation. The  
177 assessment or evaluation must be administered by a qualified  
178 professional, as defined in s. 397.311. The court may also  
179 require such person to participate in and comply with treatment  
180 and services identified as necessary, including, when  
181 appropriate and available, participation in and compliance with  
182 a treatment-based drug court program established under s.  
183 397.334. In addition to supervision by the department, the  
184 court, including the treatment-based drug court program, may  
185 oversee the progress and compliance with treatment by a person  
186 who has custody or is requesting custody of the child. The court  
187 may impose appropriate available sanctions for noncompliance

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188 upon a person who has custody or is requesting custody of the  
189 child or make a finding of noncompliance for consideration in  
190 determining whether an alternative placement of the child is in  
191 the child's best interests. Any order entered under this  
192 subparagraph may be made only upon good cause shown. This  
193 subparagraph does not authorize placement of a child with a  
194 person seeking custody of the child, other than the child's  
195 parent or legal custodian, who requires substance abuse  
196 treatment.

197 2. Require, if the court deems necessary, the parties to  
198 participate in dependency mediation.

199 3. Require placement of the child either under the  
200 protective supervision of an authorized agent of the department  
201 in the home of one or both of the child's parents or in the home  
202 of a relative of the child or another adult approved by the  
203 court, or in the custody of the department. Protective  
204 supervision continues until the court terminates it or until the  
205 child reaches the age of 18, whichever date is first. Protective  
206 supervision shall be terminated by the court whenever the court  
207 determines that permanency has been achieved for the child,  
208 whether with a parent, another relative, or a legal custodian,  
209 and that protective supervision is no longer needed. The  
210 termination of supervision may be with or without retaining  
211 jurisdiction, at the court's discretion, and shall in either  
212 case be considered a permanency option for the child. The order  
213 terminating supervision by the department shall set forth the  
214 powers of the custodian of the child and shall include the

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215 powers ordinarily granted to a guardian of the person of a minor  
 216 unless otherwise specified. Upon the court's termination of  
 217 supervision by the department, no further judicial reviews are  
 218 required, so long as permanency has been established for the  
 219 child.

220 Section 6. Section 397.334, Florida Statutes, is amended  
 221 to read:

222 397.334 Treatment-based drug court programs.--

223 (1) Each county may fund a treatment-based drug court  
 224 program under which persons in the justice system assessed with  
 225 a substance abuse problem will be processed in such a manner as  
 226 to appropriately address the severity of the identified  
 227 substance abuse problem through treatment services plans ~~plans~~  
 228 tailored to the individual needs of the participant. It is the  
 229 intent of the Legislature to encourage the Department of  
 230 Corrections, the Department of Children and Family Services, the  
 231 Department of Juvenile Justice, the Department of Health, the  
 232 Department of Law Enforcement, the Department of Education, and  
 233 such ~~other~~ agencies, local governments, law enforcement  
 234 agencies, ~~and~~ other interested public or private sources, and  
 235 individuals to support the creation and establishment of these  
 236 problem-solving court programs. Participation in the treatment-  
 237 based drug court programs does not divest any public or private  
 238 agency of its responsibility for a child or adult, but enables  
 239 ~~allows~~ these agencies to better meet their needs through shared  
 240 responsibility and resources.

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241           (2) Entry into any pretrial treatment-based drug court  
242 program shall be voluntary. When neither s. 948.08(6)(a)1. nor  
243 s. 948.08(6)(a)2. applies, the court may order an individual to  
244 enter into a pretrial treatment-based drug court program only  
245 upon written agreement by the individual, which shall include a  
246 statement that the individual understands the requirements of  
247 the program and the potential sanctions for noncompliance.

248           ~~(3)-(2)~~ The treatment-based drug court programs shall  
249 include therapeutic jurisprudence principles and adhere to the  
250 following 10 key components, recognized by the Drug Courts  
251 Program Office of the Office of Justice Programs of the United  
252 States Department of Justice and adopted by the Florida Supreme  
253 Court Treatment-Based Drug Court Steering Committee:

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

256           (b) Using a nonadversarial approach, prosecution and  
257 defense counsel promote public safety while protecting  
258 participants' due process rights.

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

261           (d) Drug court programs provide access to a continuum of  
262 alcohol, drug, and other related treatment and rehabilitation  
263 services.

264           (e) Abstinence is monitored by frequent testing for  
265 alcohol and other drugs.

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

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268 (g) Ongoing judicial interaction with each drug court  
269 program participant is essential.

270 (h) Monitoring and evaluation measure the achievement of  
271 program goals and gauge program effectiveness.

272 (i) Continuing interdisciplinary education promotes  
273 effective drug court program planning, implementation, and  
274 operations.

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

278 ~~(4)-(3)~~ Treatment-based drug court programs may include  
279 pretrial intervention programs as provided in ss. 948.08,  
280 948.16, and 985.306, treatment-based drug court programs  
281 authorized in chapter 39, postadjudicatory programs, and review  
282 of the status of compliance or noncompliance of sentenced  
283 offenders through a treatment-based drug court program. While  
284 enrolled in a treatment-based drug court program, the  
285 participant is subject to a coordinated strategy developed by a  
286 drug court team under subsection (3). The coordinated strategy  
287 may include a protocol of sanctions that may be imposed upon the  
288 participant for noncompliance with program rules. The protocol  
289 of sanctions may include, but is not limited to, placement in a  
290 substance abuse treatment program offered by a licensed service  
291 provider as defined in s. 397.311 or in a jail-based treatment  
292 program or serving a period of secure detention under chapter  
293 985 if a child or a period of incarceration within the time  
294 limits established for contempt of court if an adult. The

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295 coordinated strategy must be provided in writing to the  
296 participant before the participant agrees to enter into a  
297 treatment-based drug court program.

298 (5) Contingent upon an annual appropriation by the  
299 Legislature, each judicial circuit shall establish, at a  
300 minimum, one coordinator position for the treatment-based drug  
301 court program within the state courts system to coordinate the  
302 responsibilities of the participating agencies and service  
303 providers. Each coordinator shall provide direct support to the  
304 treatment-based drug court program by providing coordination  
305 between the multidisciplinary team and the judiciary, providing  
306 case management, monitoring compliance of the participants in  
307 the treatment-based drug court program with court requirements,  
308 and providing program evaluation and accountability.

309 (6)-(4)(a) The Florida Association of Drug Court ~~Program~~  
310 Professionals is created. The membership of the association may  
311 consist of treatment-based drug court program practitioners who  
312 comprise the multidisciplinary treatment-based drug court  
313 program team, including, but not limited to, judges, state  
314 attorneys, defense counsel, treatment-based drug court program  
315 coordinators, probation officers, law enforcement officers,  
316 community representatives, members of the academic community,  
317 and treatment professionals. Membership in the association shall  
318 be voluntary.

319 (b) The association shall annually elect a chair whose  
320 duty is to solicit recommendations from members on issues  
321 relating to the expansion, operation, and institutionalization

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322 of treatment-based drug court programs. The chair is responsible  
323 for providing on or before October 1 of each year the  
324 association's recommendations and an annual report to the  
325 appropriate Supreme Court ~~Treatment-Based Drug Court Steering~~  
326 committee or to the appropriate personnel of the Office of the  
327 State Courts Administrator, ~~and shall submit a report each year,~~  
328 ~~on or before October 1, to the steering committee.~~

329 ~~(7)-(5)~~ If a county chooses to fund a treatment-based drug  
330 court program, the county must secure funding from sources other  
331 than the state for those costs not otherwise assumed by the  
332 state pursuant to s. 29.004. However, this does not preclude  
333 counties from using treatment and other service dollars provided  
334 through state executive branch agencies. Counties may provide,  
335 by interlocal agreement, for the collective funding of these  
336 programs.

337 (8) The chief judge of each judicial circuit may appoint  
338 an advisory committee for the treatment-based drug court  
339 program. The committee shall be composed of the chief judge, or  
340 his or her designee, who shall serve as chair; the judge of the  
341 treatment-based drug court program, if not otherwise designated  
342 by the chief judge as his or her designee; the state attorney,  
343 or his or her designee; the public defender, or his or her  
344 designee; the treatment-based drug court program coordinators;  
345 community representatives; treatment representatives; and any  
346 other persons the chair finds are appropriate.

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

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349 910.035 Transfer from county for plea and sentence.--

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

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

360 (e) Upon successful completion of the drug court program,  
 361 the jurisdiction to which the case has been transferred shall  
 362 dispose of the case pursuant to s. 948.08(6). If the defendant  
 363 does not complete the drug court program successfully, the  
 364 jurisdiction to which the case has been transferred shall  
 365 dispose of the case within the guidelines of the Criminal  
 366 Punishment Code ~~case shall be prosecuted as determined by the~~  
 367 ~~state attorneys of the sending and receiving counties.~~

368 Section 8. Subsections (6), (7), and (8) of section  
 369 948.08, Florida Statutes, are amended to read:

370 948.08 Pretrial intervention program.--

371 (6) (a) Notwithstanding any provision of this section, a  
 372 person who is charged with a felony of the second or third  
 373 degree for purchase or possession of a controlled substance  
 374 under chapter 893, prostitution, tampering with evidence,  
 375 solicitation for purchase of a controlled substance, or

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376 obtaining a prescription by fraud; who has not been charged with  
377 a crime involving violence, including, but not limited to,  
378 murder, sexual battery, robbery, carjacking, home-invasion  
379 robbery, or any other crime involving violence; and who has not  
380 previously been convicted of a felony nor been admitted to a  
381 felony pretrial program referred to in this section is eligible  
382 for voluntary admission into a pretrial substance abuse  
383 education and treatment intervention program, including a  
384 treatment-based drug court program established pursuant to s.  
385 397.334, approved by the chief judge of the circuit, for a  
386 period of not less than 1 year in duration, upon motion of  
387 either party or the court's own motion, except:

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

393 2. If the state attorney believes that the facts and  
394 circumstances of the case suggest the defendant's involvement in  
395 the dealing and selling of controlled substances, the court  
396 shall hold a preadmission hearing. If the state attorney  
397 establishes, by a preponderance of the evidence at such hearing,  
398 that the defendant was involved in the dealing or selling of  
399 controlled substances, the court shall deny the defendant's  
400 admission into a pretrial intervention program.

401 (b) While enrolled in a pretrial intervention program  
402 authorized by this subsection, the participant is subject to a

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403 coordinated strategy developed by a drug court team under s.  
404 397.334(3). The coordinated strategy may include a protocol of  
405 sanctions that may be imposed upon the participant for  
406 noncompliance with program rules. The protocol of sanctions may  
407 include, but is not limited to, placement in a substance abuse  
408 treatment program offered by a licensed service provider as  
409 defined in s. 397.311 or in a jail-based treatment program or  
410 -serving a period of incarceration within the time limits  
411 established for contempt of court. The coordinated strategy must  
412 be provided in writing to the participant before the participant  
413 agrees to enter into a pretrial treatment-based drug court  
414 program or other pretrial intervention program. Any person whose  
415 charges are dismissed after successful completion of the  
416 treatment-based drug court program, if otherwise eligible, may  
417 have his or her arrest record and plea of nolo contendere to the  
418 dismissed charges expunged under s. 943.0585.

419 (c) ~~(b)~~ At the end of the pretrial intervention period, the  
420 court shall consider the recommendation of the administrator  
421 pursuant to subsection (5) and the recommendation of the state  
422 attorney as to disposition of the pending charges. The court  
423 shall determine, by written finding, whether the defendant has  
424 successfully completed the pretrial intervention program.

425 ~~(e)1.~~ Notwithstanding the coordinated strategy developed  
426 by a drug court team pursuant to s. 397.334(3), if the court  
427 finds that the defendant has not successfully completed the  
428 pretrial intervention program, the court may order the person to  
429 continue in education and treatment, which may include substance

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430 abuse treatment programs offered by licensed service providers  
431 as defined in s. 397.311 or jail-based treatment programs, or  
432 order that the charges revert to normal channels for  
433 prosecution.

434 ~~2.~~ The court shall dismiss the charges upon a finding that  
435 the defendant has successfully completed the pretrial  
436 intervention program.

437 (d) Any entity, whether public or private, providing a  
438 pretrial substance abuse education and treatment intervention  
439 program under this subsection must contract with the county or  
440 appropriate governmental entity, and the terms of the contract  
441 must include, but need not be limited to, the requirements  
442 established for private entities under s. 948.15(3).

443 ~~(7) The chief judge in each circuit may appoint an~~  
444 ~~advisory committee for the pretrial intervention program~~  
445 ~~composed of the chief judge or his or her designee, who shall~~  
446 ~~serve as chair; the state attorney, the public defender, and the~~  
447 ~~program administrator, or their designees; and such other~~  
448 ~~persons as the chair deems appropriate. The advisory committee~~  
449 ~~may not designate any defendant eligible for a pretrial~~  
450 ~~intervention program for any offense that is not listed under~~  
451 ~~paragraph (6) (a) without the state attorney's recommendation and~~  
452 ~~approval. The committee may also include persons representing~~  
453 ~~any other agencies to which persons released to the pretrial~~  
454 ~~intervention program may be referred.~~

455 (7)~~(8)~~ The department may contract for the services and  
456 facilities necessary to operate pretrial intervention programs.

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457 Section 9. Section 948.16, Florida Statutes, is amended to  
 458 read:

459 948.16 Misdemeanor pretrial substance abuse education and  
 460 treatment intervention program.--

461 (1) (a) A person who is charged with a misdemeanor for  
 462 possession of a controlled substance or drug paraphernalia under  
 463 chapter 893, and who has not previously been convicted of a  
 464 felony nor been admitted to a pretrial program, is eligible for  
 465 voluntary admission into a misdemeanor pretrial substance abuse  
 466 education and treatment intervention program, including a  
 467 treatment-based drug court program established pursuant to s.  
 468 397.334, approved by the chief judge of the circuit, for a  
 469 period based on the program requirements and the treatment plan  
 470 for the offender, upon motion of either party or the court's own  
 471 motion, except, if the state attorney believes the facts and  
 472 circumstances of the case suggest the defendant is involved in  
 473 dealing and selling controlled substances, the court shall hold  
 474 a preadmission hearing. If the state attorney establishes, by a  
 475 preponderance of the evidence at such hearing, that the  
 476 defendant was involved in dealing or selling controlled  
 477 substances, the court shall deny the defendant's admission into  
 478 the pretrial intervention program.

479 (b) While enrolled in a pretrial intervention program  
 480 authorized by this section, the participant is subject to a  
 481 coordinated strategy developed by a drug court team under s.  
 482 397.334(3). The coordinated strategy may include a protocol of  
 483 sanctions that may be imposed upon the participant for

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484 noncompliance with program rules. The protocol of sanctions may  
485 include, but is not limited to, placement in a substance abuse  
486 treatment program offered by a licensed service provider as  
487 defined in s. 397.311 or in a jail-based treatment program or  
488 -serving a period of incarceration within the time limits  
489 established for contempt of court. The coordinated strategy must  
490 be provided in writing to the participant before the participant  
491 agrees to enter into a pretrial treatment-based drug court  
492 program or other pretrial intervention program. Any person whose  
493 charges are dismissed after successful completion of the  
494 treatment-based drug court program, if otherwise eligible, may  
495 have his or her arrest record and plea of nolo contendere to the  
496 dismissed charges expunged under s. 943.0585.

497 (2) At the end of the pretrial intervention period, the  
498 court shall consider the recommendation of the treatment program  
499 and the recommendation of the state attorney as to disposition  
500 of the pending charges. The court shall determine, by written  
501 finding, whether the defendant successfully completed the  
502 pretrial intervention program.

503 ~~(a)~~ Notwithstanding the coordinated strategy developed by  
504 a drug court team pursuant to s. 397.334(3), if the court finds  
505 that the defendant has not successfully completed the pretrial  
506 intervention program, the court may order the person to continue  
507 in education and treatment or return the charges to the criminal  
508 docket for prosecution.

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509           ~~(b)~~ The court shall dismiss the charges upon finding that  
 510 the defendant has successfully completed the pretrial  
 511 intervention program.

512           (3) Any public or private entity providing a pretrial  
 513 substance abuse education and treatment program under this  
 514 section shall contract with the county or appropriate  
 515 governmental entity. The terms of the contract shall include,  
 516 but not be limited to, the requirements established for private  
 517 entities under s. 948.15(3).

518           Section 10. Section 985.306, Florida Statutes, is amended  
 519 to read:

520           985.306 Delinquency pretrial intervention program.--

521           (1)~~(a)~~ Notwithstanding any provision of law to the  
 522 contrary, a child who is charged ~~under chapter 893~~ with a felony  
 523 of the second or third degree for purchase or possession of a  
 524 controlled substance under chapter 893; tampering with evidence;  
 525 solicitation for purchase of a controlled substance; or  
 526 obtaining a prescription by fraud, and who has not previously  
 527 been adjudicated for a felony ~~nor been admitted to a delinquency~~  
 528 ~~pretrial intervention program under this section,~~ is eligible  
 529 for voluntary admission into a delinquency pretrial substance  
 530 abuse education and treatment intervention program, including a  
 531 treatment-based drug court program established pursuant to s.  
 532 397.334, approved by the chief judge or alternative sanctions  
 533 coordinator of the circuit to the extent that funded programs  
 534 are available, for a period based on the program requirements  
 535 and the treatment services that are suitable for the offender ~~of~~

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536 ~~not less than 1 year in duration~~, upon motion of either party or  
537 the court's own motion. However, if the state attorney believes  
538 that the facts and circumstances of the case suggest the child's  
539 involvement in the dealing and selling of controlled substances,  
540 the court shall hold a preadmission hearing. If the state  
541 attorney establishes by a preponderance of the evidence at such  
542 hearing that the child was involved in the dealing and selling  
543 of controlled substances, the court shall deny the child's  
544 admission into a delinquency pretrial intervention program.

545 (2) While enrolled in a delinquency pretrial intervention  
546 program authorized by this section, a child is subject to a  
547 coordinated strategy developed by a drug court team under s.  
548 397.334(3). The coordinated strategy may include a protocol of  
549 sanctions that may be imposed upon the child for noncompliance  
550 with program rules. The protocol of sanctions may include, but  
551 is not limited to, placement in a substance abuse treatment  
552 program offered by a licensed service provider as defined in s.  
553 397.311 or serving a period of secure detention under this  
554 chapter. The coordinated strategy must be provided in writing to  
555 the child before the child agrees to enter the pretrial  
556 treatment-based drug court program or other pretrial  
557 intervention program. Any child whose charges are dismissed  
558 after successful completion of the treatment-based drug court  
559 program, if otherwise eligible, may have his or her arrest  
560 record and plea of nolo contendere to the dismissed charges  
561 expunged under s. 943.0585.

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562        ~~(3)(b)~~ At the end of the delinquency pretrial intervention  
563 period, the court shall consider the recommendation of the state  
564 attorney and the program administrator as to disposition of the  
565 pending charges. The court shall determine, by written finding,  
566 whether the child has successfully completed the delinquency  
567 pretrial intervention program.

568        ~~(e)1.~~ Notwithstanding the coordinated strategy developed  
569 by a drug court team pursuant to s. 397.334(3), if the court  
570 finds that the child has not successfully completed the  
571 delinquency pretrial intervention program, the court may order  
572 the child to continue in an education, treatment, or urine  
573 monitoring program if resources and funding are available or  
574 order that the charges revert to normal channels for  
575 prosecution.

576        ~~2.~~ The court may dismiss the charges upon a finding that  
577 the child has successfully completed the delinquency pretrial  
578 intervention program.

579        ~~(4)(d)~~ Any entity, whether public or private, providing  
580 pretrial substance abuse education, treatment intervention, and  
581 a urine monitoring program under this section must contract with  
582 the county or appropriate governmental entity, and the terms of  
583 the contract must include, but need not be limited to, the  
584 requirements established for private entities under s.  
585 948.15(3). It is the intent of the Legislature that public or  
586 private entities providing substance abuse education and  
587 treatment intervention programs involve the active participation

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588 | of parents, schools, churches, businesses, law enforcement  
589 | agencies, and the department or its contract providers.

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

599 | Section 11. This act shall take effect upon becoming a  
600 | law.