

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 1060

INTRODUCER: Senator Lynn

SUBJECT: Programs for Misdemeanor Offenders

DATE: March 17, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Pre-Meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 1060 requires a county court to sentence a defendant found guilty of misdemeanor possession of a controlled substance or drug paraphernalia to a licensed substance abuse education and treatment intervention program.

The bill also expands the pool of people who are eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program by removing the requirement that a person not have previously been admitted into a pretrial program in order to participate in such programs.

This bill substantially amends sections 948.15 and 948.16 of the Florida Statutes.

II. Present Situation:

Misdemeanor Probation

Section 948.15, F.S., provides for misdemeanor probation services. It specifies that a private entity or public entity under the supervision of the board of county commissioners or the court may provide probation services for offenders sentenced by the county court. Any private entity providing services for the supervision of misdemeanor probationers must contract with the county in which the services are to be rendered.

A private entity that provides court-ordered services to offenders and that charges a fee for such services must register with the board of county commissioners in the county in which the services are offered. The entity is required to provide the following information for each program it operates:

- The length of time the program has been operating in the county.
- A list of the staff and a summary of their qualifications.
- A summary of the types of services that are offered under the program.
- The fees the entity charges for court-ordered services and its procedures, if any, for handling indigent offenders.

The term of misdemeanor probation may be for up to one year.

Misdemeanor Pretrial Intervention Program

Section 948.16, F.S., specifies that a person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S., and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program, for a period based on the program requirements and the treatment plan for the offender.

Admission may be based upon motion of either party or the court except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into the pretrial intervention program.

Participants in the program are subject to a coordinated strategy developed by a drug court team under s. 397.334(4), F.S., which may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court.

At the end of the pretrial intervention period, the court must:

- Consider the recommendation of the treatment program;
- Consider the recommendation of the state attorney as to disposition of the pending charges; and
- Determine, by written finding, whether the defendant successfully completed the pretrial intervention program.

If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution. The court must dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.

III. Effect of Proposed Changes:

Senate Bill 1060 provides that defendants found guilty of a misdemeanor drug or paraphernalia possession charge under chapter 893, F.S., must be placed by the court in a licensed substance abuse education and treatment intervention program.

The local boards of county commissioners are authorized to contract with and supervise misdemeanor probation service organizations. The courts are also authorized under s. 948.15, F.S., to provide misdemeanor probation services.

The bill specifically includes licensed substance abuse education and treatment intervention programs among the programs that may provide misdemeanor supervision for defendants in county court on charges other than possession of drugs or paraphernalia under chapter 893, F.S.

Under current law, only persons who have been charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S., and who have not previously been convicted of a felony nor been admitted to a pretrial program, are eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program.

The bill expands the pool of people who are eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program by removing the requirement that a person not have previously been admitted into a pretrial program in order to participate in such programs.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is likely to have a fiscal impact on counties that will be required to provide licensed substance abuse education and treatment intervention programs for misdemeanor defendants placed on county probation as required by the bill.

The bill as written could also expand the number of potential participants in county-funded misdemeanor pretrial substance abuse education and treatment intervention programs. Although no potential fiscal impact has been brought to our attention, it is conceivable that the counties may decide to increase program capacity which would result in increased expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.