

By Senator Lynn

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1 A bill to be entitled
2 An act relating to programs for misdemeanor offenders;
3 amending s. 948.15, F.S.; providing for defendants
4 found guilty of certain misdemeanor drug offenses to
5 be placed into licensed substance abuse education and
6 treatment intervention programs; authorizing private
7 or public entities to provide such programs; requiring
8 that a private entity provide such programs under
9 contract and comply with applicable laws; amending s.
10 948.16, F.S.; removing certain eligibility criteria
11 prohibiting such placement if the defendant has
12 previously been admitted to a pretrial program;
13 providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsections (1), (2), (3), and (5) of section
18 948.15, Florida Statutes, are amended to read:

19 948.15 Misdemeanor probation services.—

20 (1) Defendants found guilty of misdemeanors who are placed
21 on probation shall be under supervision not to exceed 6 months
22 unless otherwise specified by the court, notwithstanding that
23 defendants found guilty of a misdemeanor for possession of a
24 controlled substance or drug paraphernalia under chapter 893
25 shall be placed in a licensed substance abuse education and
26 treatment intervention program. In relation to any offense other
27 than a felony in which the use of alcohol is a significant
28 factor, the period of probation may be up to 1 year.

29 (2) A private entity or public entity under the supervision

7-01238A-11

20111060__

30 of the board of county commissioners or the court may provide
31 probation services, including licensed substance abuse education
32 and treatment intervention programs, for offenders sentenced by
33 the county court.

34 (3) Any private entity providing services for the
35 supervision of misdemeanor probationers, including licensed
36 substance abuse education and treatment intervention programs,
37 must contract with the county in which the services are to be
38 rendered. In a county with a population of less than 70,000, the
39 county court judge, or the administrative judge of the county
40 court in a county that has more than one county court judge,
41 must approve the contract. Terms of the contract must state, but
42 are not limited to:

43 (a) The extent of the services to be rendered by the entity
44 providing supervision or rehabilitation.

45 (b) Staff qualifications and criminal record checks of
46 staff in accordance with essential standards established by the
47 American Correctional Association as of January 1, 1991.

48 (c) Staffing levels.

49 (d) The number of face-to-face contacts with the offender.

50 (e) Procedures for handling the collection of all offender
51 fees and restitution.

52 (f) Procedures for handling indigent offenders which ensure
53 placement irrespective of ability to pay.

54 (g) Circumstances under which revocation of an offender's
55 probation may be recommended.

56 (h) Reporting and recordkeeping requirements.

57 (i) Default and contract termination procedures.

58 (j) Procedures that aid offenders with job assistance.

7-01238A-11

20111060__

59 (k) Procedures for accessing criminal history records of
60 probationers.

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62 In addition, the entity shall supply the chief judge's office
63 with a quarterly report summarizing the number of offenders
64 supervised by the private entity, payment of the required
65 contribution under supervision or rehabilitation, and the number
66 of offenders for whom supervision or rehabilitation will be
67 terminated. All records of the entity must be open to inspection
68 upon the request of the county, the court, the Auditor General,
69 the Office of Program Policy Analysis and Government
70 Accountability, or agents thereof.

71 (5) The private entity providing misdemeanor supervision
72 services or licensed substance abuse education and treatment
73 intervention programs shall also comply with all other
74 applicable provisions of law.

75 Section 2. Subsection (1) of section 948.16, Florida
76 Statutes, is amended to read:

77 948.16 Misdemeanor pretrial substance abuse education and
78 treatment intervention program.—

79 (1) (a) A person who is charged with a misdemeanor for
80 possession of a controlled substance or drug paraphernalia under
81 chapter 893, and who has not previously been convicted of a
82 felony ~~nor been admitted to a pretrial program~~, is eligible for
83 voluntary admission into a misdemeanor pretrial substance abuse
84 education and treatment intervention program, including a
85 treatment-based drug court program established pursuant to s.
86 397.334, approved by the chief judge of the circuit, for a
87 period based on the program requirements and the treatment plan

7-01238A-11

20111060__

88 for the offender, upon motion of either party or the court's own
89 motion, except, if the state attorney believes the facts and
90 circumstances of the case suggest the defendant is involved in
91 dealing and selling controlled substances, the court shall hold
92 a preadmission hearing. If the state attorney establishes, by a
93 preponderance of the evidence at such hearing, that the
94 defendant was involved in dealing or selling controlled
95 substances, the court shall deny the defendant's admission into
96 the pretrial intervention program.

97 (b) While enrolled in a pretrial intervention program
98 authorized by this section, the participant is subject to a
99 coordinated strategy developed by a drug court team under s.
100 397.334(4). The coordinated strategy may include a protocol of
101 sanctions that may be imposed upon the participant for
102 noncompliance with program rules. The protocol of sanctions may
103 include, but is not limited to, placement in a substance abuse
104 treatment program offered by a licensed service provider as
105 defined in s. 397.311 or in a jail-based treatment program or
106 serving a period of incarceration within the time limits
107 established for contempt of court. The coordinated strategy must
108 be provided in writing to the participant before the participant
109 agrees to enter into a pretrial treatment-based drug court
110 program or other pretrial intervention program. Any person whose
111 charges are dismissed after successful completion of the
112 treatment-based drug court program, if otherwise eligible, may
113 have his or her arrest record and plea of nolo contendere to the
114 dismissed charges expunged under s. 943.0585.

115 Section 3. This act shall take effect July 1, 2011.