

By Senator Wise

5-00551-11

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1                   A bill to be entitled  
2           An act relating to treatment-based drug court  
3           programs; amending s. 397.334, F.S.; providing that a  
4           court has the discretion to allow offenders with prior  
5           violent felony offenses into postadjudicatory  
6           treatment-based drug court programs on a case-by-case  
7           basis; requiring all offenders sentenced to a  
8           postadjudicatory drug court program who are drug court  
9           participants who are the subject of a violation of  
10          probation or community control hearing under specified  
11          provisions to have the violation of probation or  
12          community control heard by the judge presiding over  
13          the drug court program; providing that treatment-based  
14          drug court programs may include postadjudicatory  
15          programs provided under specified provisions; amending  
16          s. 921.0026, F.S.; increasing the number of Criminal  
17          Punishment Code scoresheet total sentence points that  
18          a defendant may have and be eligible for a  
19          postadjudicatory treatment-based drug court program;  
20          amending s. 948.01, F.S.; increasing the number of  
21          Criminal Punishment Code scoresheet total sentence  
22          points that a defendant may have and be eligible for a  
23          postadjudicatory treatment-based drug court program;  
24          amending s. 948.06, F.S.; making defendants other than  
25          those who have violated probation or community control  
26          by a failed or suspect substance abuse test eligible  
27          for postadjudicatory treatment-based drug court  
28          programs; increasing the number of Criminal Punishment  
29          Code scoresheet total sentence points that a defendant

5-00551-11

2011400\_\_

30 may have and be eligible for a postadjudicatory  
31 treatment-based drug court program; amending s.  
32 948.20, F.S.; increasing the number of Criminal  
33 Punishment Code scoresheet total sentence points that  
34 a defendant may have and be eligible for a  
35 postadjudicatory treatment-based drug court program;  
36 providing an effective date.  
37

38 Be It Enacted by the Legislature of the State of Florida:  
39

40 Section 1. Subsections (3) and (5) of section 397.334,  
41 Florida Statutes, are amended to read:

42 397.334 Treatment-based drug court programs.—

43 (3) (a) Entry into any postadjudicatory treatment-based drug  
44 court program as a condition of probation or community control  
45 pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based  
46 upon the sentencing court's assessment of the defendant's  
47 criminal history, substance abuse screening outcome, amenability  
48 to the services of the program, total sentence points, the  
49 recommendation of the state attorney and the victim, if any, and  
50 the defendant's agreement to enter the program. The court has  
51 the discretion to allow offenders who have prior violent felony  
52 offenses into any postadjudicatory treatment-based drug court  
53 program on a case-by-case basis after consideration of the  
54 offender's record.

55 (b) An offender who is sentenced to a postadjudicatory drug  
56 court program and who, while a drug court participant, is the  
57 subject of a violation of probation or community control under  
58 s. 948.06, ~~based solely upon a failed or suspect substance abuse~~

5-00551-11

2011400\_\_

59 ~~test administered pursuant to s. 948.01 or s. 948.03,~~ shall have  
60 the violation of probation or community control heard by the  
61 judge presiding over the postadjudicatory drug court program.  
62 The judge shall dispose of any such violation, after a hearing  
63 on or admission of the violation, as he or she deems appropriate  
64 if the resulting sentence or conditions are lawful.

65 (5) Treatment-based drug court programs may include  
66 pretrial intervention programs as provided in ss. 948.08,  
67 948.16, and 985.345, treatment-based drug court programs  
68 authorized in chapter 39, postadjudicatory programs as provided  
69 in ss. 948.01, 948.06, and 948.20, and review of the status of  
70 compliance or noncompliance of sentenced offenders through a  
71 treatment-based drug court program. While enrolled in a  
72 treatment-based drug court program, the participant is subject  
73 to a coordinated strategy developed by a drug court team under  
74 subsection (4). The coordinated strategy may include a protocol  
75 of sanctions that may be imposed upon the participant for  
76 noncompliance with program rules. The protocol of sanctions may  
77 include, but is not limited to, placement in a substance abuse  
78 treatment program offered by a licensed service provider as  
79 defined in s. 397.311 or in a jail-based treatment program or  
80 serving a period of secure detention under chapter 985 if a  
81 child or a period of incarceration within the time limits  
82 established for contempt of court if an adult. The coordinated  
83 strategy must be provided in writing to the participant before  
84 the participant agrees to enter into a treatment-based drug  
85 court program.

86 Section 2. Paragraph (m) of subsection (2) of section  
87 921.0026, Florida Statutes, is amended to read:

5-00551-11

2011400\_\_

88 921.0026 Mitigating circumstances.—This section applies to  
89 any felony offense, except any capital felony, committed on or  
90 after October 1, 1998.

91 (2) Mitigating circumstances under which a departure from  
92 the lowest permissible sentence is reasonably justified include,  
93 but are not limited to:

94 (m) The defendant's offense is a nonviolent felony, the  
95 defendant's Criminal Punishment Code scoresheet total sentence  
96 points under s. 921.0024 are 60 ~~52~~ points or fewer, and the  
97 court determines that the defendant is amenable to the services  
98 of a postadjudicatory treatment-based drug court program and is  
99 otherwise qualified to participate in the program as part of the  
100 sentence. For purposes of this paragraph, the term "nonviolent  
101 felony" has the same meaning as provided in s. 948.08(6).

102 Section 3. Paragraph (a) of subsection (7) of section  
103 948.01, Florida Statutes, is amended to read:

104 948.01 When court may place defendant on probation or into  
105 community control.—

106 (7) (a) Notwithstanding s. 921.0024 and effective for  
107 offenses committed on or after July 1, 2009, the sentencing  
108 court may place the defendant into a postadjudicatory treatment-  
109 based drug court program if the defendant's Criminal Punishment  
110 Code scoresheet total sentence points under s. 921.0024 are 60  
111 ~~52~~ points or fewer, and the offense defendant is a nonviolent  
112 felony ~~offender~~, the defendant is amenable to substance abuse  
113 treatment, and the defendant otherwise qualifies under s.  
114 397.334(3). The satisfactory completion of the program shall be  
115 a condition of the defendant's probation or community control.  
116 As used in this subsection, the term "nonviolent felony" means a

5-00551-11

2011400\_\_

117 third degree felony violation under chapter 810 or any other  
118 felony offense that is not a forcible felony as defined in s.  
119 776.08.

120 Section 4. Paragraph (i) of subsection (2) of section  
121 948.06, Florida Statutes, is amended to read:

122 948.06 Violation of probation or community control;  
123 revocation; modification; continuance; failure to pay  
124 restitution or cost of supervision.—

125 (2)

126 (i)1. Notwithstanding s. 921.0024 and effective for  
127 offenses committed on or after July 1, 2009, the court may order  
128 the defendant to successfully complete a postadjudicatory  
129 treatment-based drug court program if:

130 a. The court finds or the offender admits that the offender  
131 has violated his or her community control or probation ~~and the~~  
132 ~~violation was due only to a failed or suspect substance abuse~~  
133 ~~test;~~

134 b. The offender's Criminal Punishment Code scoresheet total  
135 sentence points under s. 921.0024 are 60 ~~52~~ points or fewer  
136 after including points for the violation;

137 c. The underlying offense is a nonviolent felony. As used  
138 in this subsection, the term "nonviolent felony" means a third  
139 degree felony violation under chapter 810 or any other felony  
140 offense that is not a forcible felony as defined in s. 776.08;

141 d. The court determines that the offender is amenable to  
142 the services of a postadjudicatory treatment-based drug court  
143 program;

144 e. The court has explained the purpose of the program to  
145 the offender and the offender has agreed to participate; and

5-00551-11

2011400\_\_

146 f. The offender is otherwise qualified to participate in  
147 the program under the provisions of s. 397.334(3).

148 2. After the court orders the modification of community  
149 control or probation, the original sentencing court shall  
150 relinquish jurisdiction of the offender's case to the  
151 postadjudicatory treatment-based drug court program until the  
152 offender is no longer active in the program, the case is  
153 returned to the sentencing court due to the offender's  
154 termination from the program for failure to comply with the  
155 terms thereof, or the offender's sentence is completed.

156 Section 5. Section 948.20, Florida Statutes, is amended to  
157 read:

158 948.20 Drug offender probation.—

159 (1) If it appears to the court upon a hearing that the  
160 defendant is a chronic substance abuser whose criminal conduct  
161 is a violation of s. 893.13(2)(a) or (6)(a), or other nonviolent  
162 felony if such nonviolent felony is committed on or after July  
163 1, 2009, and notwithstanding s. 921.0024 the defendant's  
164 Criminal Punishment Code scoresheet total sentence points are 60  
165 ~~52~~ points or fewer, the court may either adjudge the defendant  
166 guilty or stay and withhold the adjudication of guilt. In either  
167 case, the court may also stay and withhold the imposition of  
168 sentence and place the defendant on drug offender probation or  
169 into a postadjudicatory treatment-based drug court program if  
170 the defendant otherwise qualifies. As used in this section, the  
171 term "nonviolent felony" means a third degree felony violation  
172 under chapter 810 or any other felony offense that is not a  
173 forcible felony as defined in s. 776.08.

174 (2)~~(1)~~ The Department of Corrections shall develop and

5-00551-11

2011400\_\_

175 administer a drug offender probation program which emphasizes a  
176 combination of treatment and intensive community supervision  
177 approaches and which includes provision for supervision of  
178 offenders in accordance with a specific treatment plan. The  
179 program may include the use of graduated sanctions consistent  
180 with the conditions imposed by the court. Drug offender  
181 probation status shall include surveillance and random drug  
182 testing, and may include those measures normally associated with  
183 community control, except that specific treatment conditions and  
184 other treatment approaches necessary to monitor this population  
185 may be ordered.

186 (3)~~(2)~~ Offenders placed on drug offender probation are  
187 subject to revocation of probation as provided in s. 948.06.

188 Section 6. This act shall take effect July 1, 2011.