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

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

34

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

36

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

39 397.334 Treatment-based drug court programs.—

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

52 (b) An offender who is sentenced to a postadjudicatory  
 53 drug court program and who, while a drug court participant, is  
 54 the subject of a violation of probation or community control  
 55 under s. 948.06, ~~based solely upon a failed or suspect substance~~  
 56 ~~abuse test administered pursuant to s. 948.01 or s. 948.03,~~

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57 shall have the violation of probation or community control heard  
58 by the judge presiding over the postadjudicatory drug court  
59 program. The judge shall dispose of any such violation, after a  
60 hearing on or admission of the violation, as he or she deems  
61 appropriate if the resulting sentence or conditions are lawful.

62 (5) Treatment-based drug court programs may include  
63 pretrial intervention programs as provided in ss. 948.08,  
64 948.16, and 985.345, treatment-based drug court programs  
65 authorized in chapter 39, postadjudicatory programs as provided  
66 in ss. 948.01, 948.06, and 948.20, and review of the status of  
67 compliance or noncompliance of sentenced offenders through a  
68 treatment-based drug court program. While enrolled in a  
69 treatment-based drug court program, the participant is subject  
70 to a coordinated strategy developed by a drug court team under  
71 subsection (4). The coordinated strategy may include a protocol  
72 of sanctions that may be imposed upon the participant for  
73 noncompliance with program rules. The protocol of sanctions may  
74 include, but is not limited to, placement in a substance abuse  
75 treatment program offered by a licensed service provider as  
76 defined in s. 397.311 or in a jail-based treatment program or  
77 serving a period of secure detention under chapter 985 if a  
78 child or a period of incarceration within the time limits  
79 established for contempt of court if an adult. The coordinated  
80 strategy must be provided in writing to the participant before  
81 the participant agrees to enter into a treatment-based drug  
82 court program.

83 Section 2. Paragraph (m) of subsection (2) of section  
84 921.0026, Florida Statutes, is amended to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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85 921.0026 Mitigating circumstances.—This section applies to  
 86 any felony offense, except any capital felony, committed on or  
 87 after October 1, 1998.

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

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

99 Section 3. Paragraph (a) of subsection (7) of section  
 100 948.01, Florida Statutes, is amended to read:

101 948.01 When court may place defendant on probation or into  
 102 community control.—

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

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113 As used in this subsection, the term "nonviolent felony" means a  
 114 third degree felony violation under chapter 810 or any other  
 115 felony offense that is not a forcible felony as defined in s.  
 116 776.08.

117 Section 4. Paragraph (i) of subsection (2) of section  
 118 948.06, Florida Statutes, is amended to read:

119 948.06 Violation of probation or community control;  
 120 revocation; modification; continuance; failure to pay  
 121 restitution or cost of supervision.—

122 (2)

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

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

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

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

138 d. The court determines that the offender is amenable to  
 139 the services of a postadjudicatory treatment-based drug court  
 140 program;

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

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

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

153 Section 5. Section 948.20, Florida Statutes, is amended to  
 154 read:

155 948.20 Drug offender probation.—

156 (1) If it appears to the court upon a hearing that the  
 157 defendant is a chronic substance abuser whose criminal conduct  
 158 is a violation of s. 893.13(2)(a) or (6)(a), or other nonviolent  
 159 felony if such nonviolent felony is committed on or after July  
 160 1, 2009, and notwithstanding s. 921.0024 the defendant's  
 161 Criminal Punishment Code scoresheet total sentence points are 60  
 162 ~~52~~ points or fewer, the court may either adjudge the defendant  
 163 guilty or stay and withhold the adjudication of guilt. In either  
 164 case, the court may also stay and withhold the imposition of  
 165 sentence and place the defendant on drug offender probation or  
 166 into a postadjudicatory treatment-based drug court program if  
 167 the defendant otherwise qualifies. As used in this section, the  
 168 term "nonviolent felony" means a third degree felony violation

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169 | under chapter 810 or any other felony offense that is not a  
170 | forcible felony as defined in s. 776.08.

171 |       (2)~~(1)~~ The Department of Corrections shall develop and  
172 | administer a drug offender probation program which emphasizes a  
173 | combination of treatment and intensive community supervision  
174 | approaches and which includes provision for supervision of  
175 | offenders in accordance with a specific treatment plan. The  
176 | program may include the use of graduated sanctions consistent  
177 | with the conditions imposed by the court. Drug offender  
178 | probation status shall include surveillance and random drug  
179 | testing, and may include those measures normally associated with  
180 | community control, except that specific treatment conditions and  
181 | other treatment approaches necessary to monitor this population  
182 | may be ordered.

183 |       (3)~~(2)~~ Offenders placed on drug offender probation are  
184 | subject to revocation of probation as provided in s. 948.06.

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