

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 498

INTRODUCER: Senator Lynn

SUBJECT: Substance Abuse Education and Intervention Programs

DATE: November 15, 2011 REVISED: _____

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

I. Summary:

The bill provides a standard condition of probation applicable to possession of controlled substance or drug paraphernalia cases at the misdemeanor level. It gives the court the option of sentencing a defendant found guilty of misdemeanor possession of a controlled substance or drug paraphernalia to a licensed substance abuse education and treatment intervention program as a condition of probation.

The bill also provides for a licensed substance abuse education and treatment program to provide probation services to those misdemeanor drug offenders who are assigned to the program.

This bill substantially amends sections 948.03 and 948.15 of the Florida Statutes.

II. Present Situation:

Felony Community Supervision

Section 948.03, F.S., sets forth the standard conditions of community supervision, as provided by the Department of Corrections, that may be imposed by a sentencing court. In enumerating these conditions in statute, the Legislature also specified that the standard conditions of supervision need not be orally pronounced at the time of sentencing. The standard conditions appear in the court's Sentencing Order and an offender is put on notice of the conditions by receiving a copy of the Order, and, typically, having the Order reviewed and explained by the community supervision officer.

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 probation for a first degree misdemeanor offense may be for up to one year.¹

Licensed Substance Abuse Education and Intervention Programs

The term “licensed substance abuse education and intervention program” is defined in chapter 397, F.S., although the term “substance abuse *education*” does not appear. The Department of Children and Family Services licenses and regulates the programs.

A licensed service provider as defined in s. 397.311(17), F.S. is “a public agency under this chapter [ch. 397], a private for-profit or not-for-profit agency ... , a physician or any other private practitioner ... , or a hospital that offers substance abuse services through one or more licensed service components.”

Licensed service components include a comprehensive continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services.² The term “intervention” means structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.³

“Substance abuse” is defined as the misuse or abuse of, or dependence on alcohol, illicit drugs, or prescription medications. As an individual progresses along this continuum of misuse, abuse, and dependence, there is an increased need for substance abuse intervention and treatment to help abate the problem.⁴

¹ Section 948.15(1), F.S.

² Section 397.311(18), F.S.

³ Section 397.311(18)(b), F.S.

⁴ Section 397.311(36), F.S.

III. Effect of Proposed Changes:

By amending s. 948.03, F.S., the bill provides that defendants found guilty of a misdemeanor drug or paraphernalia possession charge under chapter 893, F.S., may be placed by the court into a licensed substance abuse education and treatment intervention program as a standard condition of probation.

It also provides that a licensed substance abuse education and treatment program may provide probation services, beyond the programmatic component, for this particular pool of offenders.

The bill does not appear to limit a county's options with regard to contracting for the supervision of county court probation as it is currently set forth in s. 948.15, F.S.

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:

County governments may be effected to the extent that the county chooses to enter into a contract for services with a licensed substance abuse education and intervention program that costs more (or less) than any current contractual obligation a county has undertaken.

VI. Technical Deficiencies:

It should be noted that Section 1 of the bill amends s. 948.03, F.S., which lists the standard conditions of community control and probation. Section 948.03, F.S., is more applicable to the community supervision provided by the Department of Corrections in felony cases than misdemeanor probation services provided by the counties. Staff suggests that for the purposes of

continuity this language may more appropriately appear in s. 948.15, F.S., which applies to county court (misdemeanor) probation services or, alternatively, be deleted from the bill.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
