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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2016	.	
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Appropriations Subcommittee on Health and Human Services (Sobel)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (6) of section 39.001, Florida  
Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and  
screening.—

(6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(a) The Legislature recognizes that early referral and



11 comprehensive treatment can help combat mental illnesses and  
12 substance abuse disorders in families and that treatment is  
13 cost-effective.

14 (b) The Legislature establishes the following goals for the  
15 state related to mental illness and substance abuse treatment  
16 services in the dependency process:

17 1. To ensure the safety of children.

18 2. To prevent and remediate the consequences of mental  
19 illnesses and substance abuse disorders on families involved in  
20 protective supervision or foster care and reduce the occurrences  
21 of mental illnesses and substance abuse disorders, including  
22 alcohol abuse or related disorders, for families who are at risk  
23 of being involved in protective supervision or foster care.

24 3. To expedite permanency for children and reunify healthy,  
25 intact families, when appropriate.

26 4. To support families in recovery.

27 (c) The Legislature finds that children in the care of the  
28 state's dependency system need appropriate health care services,  
29 that the impact of mental illnesses and substance abuse  
30 disorders on health indicates the need for health care services  
31 to include treatment for mental health and substance abuse  
32 disorders for ~~services to~~ children and parents, where  
33 appropriate, and that it is in the state's best interest that  
34 such children be provided the services they need to enable them  
35 to become and remain independent of state care. In order to  
36 provide these services, the state's dependency system must have  
37 the ability to identify and provide appropriate intervention and  
38 treatment for children with personal or family-related mental  
39 illness and substance abuse problems.



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40 (d) It is the intent of the Legislature to encourage the  
41 use of the mental health court program model established under  
42 s. 394.47892 and the drug court program model established under  
43 by s. 397.334 and authorize courts to assess children and  
44 persons who have custody or are requesting custody of children  
45 where good cause is shown to identify and address mental  
46 illnesses and substance abuse disorders ~~problems~~ as the court  
47 deems appropriate at every stage of the dependency process.  
48 Participation in treatment, including a mental health court  
49 program or a treatment-based drug court program, may be required  
50 by the court following adjudication. Participation in assessment  
51 and treatment before ~~prior to~~ adjudication is ~~shall be~~  
52 voluntary, except as provided in s. 39.407(16).

53 (e) It is therefore the purpose of the Legislature to  
54 provide authority for the state to contract with mental health  
55 service providers and community substance abuse treatment  
56 providers for the development and operation of specialized  
57 support and overlay services for the dependency system, which  
58 will be fully implemented and used as resources permit.

59 (f) Participation in a mental health court program or a ~~the~~  
60 treatment-based drug court program does not divest any public or  
61 private agency of its responsibility for a child or adult, but  
62 is intended to enable these agencies to better meet their needs  
63 through shared responsibility and resources.

64 Section 2. Subsection (10) of section 39.507, Florida  
65 Statutes, is amended to read:

66 39.507 Adjudicatory hearings; orders of adjudication.—

67 (10) After an adjudication of dependency, or a finding of  
68 dependency where adjudication is withheld, the court may order a



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69 person who has custody or is requesting custody of the child to  
70 submit to a mental health or substance abuse disorder assessment  
71 or evaluation. The assessment or evaluation must be administered  
72 by a qualified professional, as defined in s. 397.311. The court  
73 may also require such person to participate in and comply with  
74 treatment and services identified as necessary, including, when  
75 appropriate and available, participation in and compliance with  
76 a mental health court program established under s. 394.47892 or  
77 a treatment-based drug court program established under s.  
78 397.334. In addition to supervision by the department, the  
79 court, including the mental health court program or treatment-  
80 based drug court program, may oversee the progress and  
81 compliance with treatment by a person who has custody or is  
82 requesting custody of the child. The court may impose  
83 appropriate available sanctions for noncompliance upon a person  
84 who has custody or is requesting custody of the child or make a  
85 finding of noncompliance for consideration in determining  
86 whether an alternative placement of the child is in the child's  
87 best interests. Any order entered under this subsection may be  
88 made only upon good cause shown. This subsection does not  
89 authorize placement of a child with a person seeking custody,  
90 other than the parent or legal custodian, who requires mental  
91 health or substance abuse disorder treatment.

92 Section 3. Paragraph (b) of subsection (1) of section  
93 39.521, Florida Statutes, is amended to read:

94 39.521 Disposition hearings; powers of disposition.—

95 (1) A disposition hearing shall be conducted by the court,  
96 if the court finds that the facts alleged in the petition for  
97 dependency were proven in the adjudicatory hearing, or if the



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98 parents or legal custodians have consented to the finding of  
99 dependency or admitted the allegations in the petition, have  
100 failed to appear for the arraignment hearing after proper  
101 notice, or have not been located despite a diligent search  
102 having been conducted.

103 (b) When any child is adjudicated by a court to be  
104 dependent, the court having jurisdiction of the child has the  
105 power by order to:

106 1. Require the parent and, when appropriate, the legal  
107 custodian and the child to participate in treatment and services  
108 identified as necessary. The court may require the person who  
109 has custody or who is requesting custody of the child to submit  
110 to a mental health or substance abuse disorder assessment or  
111 evaluation. The assessment or evaluation must be administered by  
112 a qualified professional, as defined in s. 397.311. The court  
113 may also require such person to participate in and comply with  
114 treatment and services identified as necessary, including, when  
115 appropriate and available, participation in and compliance with  
116 a mental health court program established under s. 394.47892 or  
117 a treatment-based drug court program established under s.  
118 397.334. In addition to supervision by the department, the  
119 court, including the mental health court program or the  
120 treatment-based drug court program, may oversee the progress and  
121 compliance with treatment by a person who has custody or is  
122 requesting custody of the child. The court may impose  
123 appropriate available sanctions for noncompliance upon a person  
124 who has custody or is requesting custody of the child or make a  
125 finding of noncompliance for consideration in determining  
126 whether an alternative placement of the child is in the child's



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127 best interests. Any order entered under this subparagraph may be  
128 made only upon good cause shown. This subparagraph does not  
129 authorize placement of a child with a person seeking custody of  
130 the child, other than the child's parent or legal custodian, who  
131 requires mental health or substance abuse disorder treatment.

132 2. Require, if the court deems necessary, the parties to  
133 participate in dependency mediation.

134 3. Require placement of the child either under the  
135 protective supervision of an authorized agent of the department  
136 in the home of one or both of the child's parents or in the home  
137 of a relative of the child or another adult approved by the  
138 court, or in the custody of the department. Protective  
139 supervision continues until the court terminates it or until the  
140 child reaches the age of 18, whichever date is first. Protective  
141 supervision shall be terminated by the court whenever the court  
142 determines that permanency has been achieved for the child,  
143 whether with a parent, another relative, or a legal custodian,  
144 and that protective supervision is no longer needed. The  
145 termination of supervision may be with or without retaining  
146 jurisdiction, at the court's discretion, and shall in either  
147 case be considered a permanency option for the child. The order  
148 terminating supervision by the department shall set forth the  
149 powers of the custodian of the child and shall include the  
150 powers ordinarily granted to a guardian of the person of a minor  
151 unless otherwise specified. Upon the court's termination of  
152 supervision by the department, no further judicial reviews are  
153 required, so long as permanency has been established for the  
154 child.

155 Section 4. Subsections (1) through (7) of section 394.4655,



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156 Florida Statutes, are renumbered as subsections (2) through (8),  
157 respectively, paragraph (b) of present subsection (3), paragraph  
158 (b) of present subsection (6), and paragraphs (a) and (c) of  
159 present subsection (7) are amended, and a new subsection (1) is  
160 added to that section, to read:

161 394.4655 Involuntary outpatient placement.—

162 (1) DEFINITIONS.—As used in this section, the term:

163 (a) "Court" means a circuit court or a criminal county  
164 court.

165 (b) "Criminal county court" means a county court exercising  
166 its original jurisdiction in a misdemeanor case under s. 34.01.

167 (4) ~~(3)~~ PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

168 (b) Each required criterion for involuntary outpatient  
169 placement must be alleged and substantiated in the petition for  
170 involuntary outpatient placement. A copy of the certificate  
171 recommending involuntary outpatient placement completed by a  
172 qualified professional specified in subsection (3) ~~(2)~~ must be  
173 attached to the petition. A copy of the proposed treatment plan  
174 must be attached to the petition. Before the petition is filed,  
175 the service provider shall certify that the services in the  
176 proposed treatment plan are available. If the necessary services  
177 are not available in the patient's local community to respond to  
178 the person's individual needs, the petition may not be filed.

179 (7) ~~(6)~~ HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

180 (b)1. If the court concludes that the patient meets the  
181 criteria for involuntary outpatient placement pursuant to  
182 subsection (2) ~~(1)~~, the court shall issue an order for  
183 involuntary outpatient placement. The court order shall be for a  
184 period of up to 6 months. The order must specify the nature and



185 extent of the patient's mental illness. The order of the court  
186 and the treatment plan shall be made part of the patient's  
187 clinical record. The service provider shall discharge a patient  
188 from involuntary outpatient placement when the order expires or  
189 any time the patient no longer meets the criteria for  
190 involuntary placement. Upon discharge, the service provider  
191 shall send a certificate of discharge to the court.

192 2. The court may not order the department or the service  
193 provider to provide services if the program or service is not  
194 available in the patient's local community, if there is no space  
195 available in the program or service for the patient, or if  
196 funding is not available for the program or service. A copy of  
197 the order must be sent to the Agency for Health Care  
198 Administration by the service provider within 1 working day  
199 after it is received from the court. After the placement order  
200 is issued, the service provider and the patient may modify  
201 provisions of the treatment plan. For any material modification  
202 of the treatment plan to which the patient or the patient's  
203 guardian advocate, if appointed, does agree, the service  
204 provider shall send notice of the modification to the court. Any  
205 material modifications of the treatment plan which are contested  
206 by the patient or the patient's guardian advocate, if appointed,  
207 must be approved or disapproved by the court consistent with  
208 subsection (3) ~~(2)~~.

209 3. If, in the clinical judgment of a physician, the patient  
210 has failed or has refused to comply with the treatment ordered  
211 by the court, and, in the clinical judgment of the physician,  
212 efforts were made to solicit compliance and the patient may meet  
213 the criteria for involuntary examination, a person may be





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214 brought to a receiving facility pursuant to s. 394.463. If,  
215 after examination, the patient does not meet the criteria for  
216 involuntary inpatient placement pursuant to s. 394.467, the  
217 patient must be discharged from the receiving facility. The  
218 involuntary outpatient placement order shall remain in effect  
219 unless the service provider determines that the patient no  
220 longer meets the criteria for involuntary outpatient placement  
221 or until the order expires. The service provider must determine  
222 whether modifications should be made to the existing treatment  
223 plan and must attempt to continue to engage the patient in  
224 treatment. For any material modification of the treatment plan  
225 to which the patient or the patient's guardian advocate, if  
226 appointed, does agree, the service provider shall send notice of  
227 the modification to the court. Any material modifications of the  
228 treatment plan which are contested by the patient or the  
229 patient's guardian advocate, if appointed, must be approved or  
230 disapproved by the court consistent with subsection (3) ~~(2)~~.

231 (8) ~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT  
232 PLACEMENT.—

233 (a)1. If the person continues to meet the criteria for  
234 involuntary outpatient placement, the service provider shall,  
235 before the expiration of the period during which the treatment  
236 is ordered for the person, file in the ~~circuit~~ court that issued  
237 the order for involuntary outpatient treatment a petition for  
238 continued involuntary outpatient placement.

239 2. The existing involuntary outpatient placement order  
240 remains in effect until disposition on the petition for  
241 continued involuntary outpatient placement.

242 3. A certificate shall be attached to the petition which



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243 includes a statement from the person's physician or clinical  
244 psychologist justifying the request, a brief description of the  
245 patient's treatment during the time he or she was involuntarily  
246 placed, and an individualized plan of continued treatment.

247 4. The service provider shall develop the individualized  
248 plan of continued treatment in consultation with the patient or  
249 the patient's guardian advocate, if appointed. When the petition  
250 has been filed, the clerk of the court shall provide copies of  
251 the certificate and the individualized plan of continued  
252 treatment to the department, the patient, the patient's guardian  
253 advocate, the state attorney, and the patient's private counsel  
254 or the public defender.

255 (c) Hearings on petitions for continued involuntary  
256 outpatient placement shall be before the ~~circuit~~ court that  
257 issued the order for involuntary outpatient treatment. The court  
258 may appoint a master to preside at the hearing. The procedures  
259 for obtaining an order pursuant to this paragraph shall be in  
260 accordance with subsection (7) ~~(6)~~, except that the time period  
261 included in paragraph (2) (e) ~~(1) (e)~~ is not applicable in  
262 determining the appropriateness of additional periods of  
263 involuntary outpatient placement.

264 Section 5. Paragraph (d) of subsection (2) of section  
265 394.4599, Florida Statutes, is amended to read:

266 394.4599 Notice.—

267 (2) INVOLUNTARY ADMISSION.—

268 (d) The written notice of the filing of the petition for  
269 involuntary placement of an individual being held must contain  
270 the following:

271 1. Notice that the petition for:



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272        a. Involuntary inpatient treatment pursuant to s. 394.467  
273 has been filed with the circuit court in the county in which the  
274 individual is hospitalized and the address of such court; or

275        b. Involuntary outpatient treatment pursuant to s. 394.4655  
276 has been filed with the criminal county court, as defined in s.  
277 394.4655(1), or the circuit court, as applicable, in the county  
278 in which the individual is hospitalized and the address of such  
279 court.

280        2. Notice that the office of the public defender has been  
281 appointed to represent the individual in the proceeding, if the  
282 individual is not otherwise represented by counsel.

283        3. The date, time, and place of the hearing and the name of  
284 each examining expert and every other person expected to testify  
285 in support of continued detention.

286        4. Notice that the individual, the individual's guardian,  
287 guardian advocate, health care surrogate or proxy, or  
288 representative, or the administrator may apply for a change of  
289 venue for the convenience of the parties or witnesses or because  
290 of the condition of the individual.

291        5. Notice that the individual is entitled to an independent  
292 expert examination and, if the individual cannot afford such an  
293 examination, that the court will provide for one.

294        Section 6. Paragraphs (g) and (i) of subsection (2) of  
295 section 394.463, Florida Statutes, are amended to read:

296        394.463 Involuntary examination.—

297        (2) INVOLUNTARY EXAMINATION.—

298        (g) A person for whom an involuntary examination has been  
299 initiated who is being evaluated or treated at a hospital for an  
300 emergency medical condition specified in s. 395.002 must be



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301 examined by a receiving facility within 72 hours. The 72-hour  
302 period begins when the patient arrives at the hospital and  
303 ceases when the attending physician documents that the patient  
304 has an emergency medical condition. If the patient is examined  
305 at a hospital providing emergency medical services by a  
306 professional qualified to perform an involuntary examination and  
307 is found as a result of that examination not to meet the  
308 criteria for involuntary outpatient placement pursuant to s.  
309 394.4655(2) ~~394.4655(1)~~ or involuntary inpatient placement  
310 pursuant to s. 394.467(1), the patient may be offered voluntary  
311 placement, if appropriate, or released directly from the  
312 hospital providing emergency medical services. The finding by  
313 the professional that the patient has been examined and does not  
314 meet the criteria for involuntary inpatient placement or  
315 involuntary outpatient placement must be entered into the  
316 patient's clinical record. Nothing in this paragraph is intended  
317 to prevent a hospital providing emergency medical services from  
318 appropriately transferring a patient to another hospital prior  
319 to stabilization, provided the requirements of s. 395.1041(3)(c)  
320 have been met.

321 (i) Within the 72-hour examination period or, if the 72  
322 hours ends on a weekend or holiday, no later than the next  
323 working day thereafter, one of the following actions must be  
324 taken, based on the individual needs of the patient:

325 1. The patient shall be released, unless he or she is  
326 charged with a crime, in which case the patient shall be  
327 returned to the custody of a law enforcement officer;

328 2. The patient shall be released, subject to the provisions  
329 of subparagraph 1., for voluntary outpatient treatment;



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330           3. The patient, unless he or she is charged with a crime,  
331 shall be asked to give express and informed consent to placement  
332 as a voluntary patient, and, if such consent is given, the  
333 patient shall be admitted as a voluntary patient; or

334           4. A petition for involuntary placement shall be filed in  
335 the circuit court if when outpatient or inpatient treatment is  
336 deemed necessary or with the criminal county court, as defined  
337 in s. 394.4655(1), as applicable. If When inpatient treatment is  
338 deemed necessary, the least restrictive treatment consistent  
339 with the optimum improvement of the patient's condition shall be  
340 made available. When a petition is to be filed for involuntary  
341 outpatient placement, it shall be filed by one of the  
342 petitioners specified in s. 394.4655(4)(a) ~~394.4655(3)(a)~~. A  
343 petition for involuntary inpatient placement shall be filed by  
344 the facility administrator.

345           Section 7. Subsection (34) of section 394.455, Florida  
346 Statutes, is amended to read:

347           394.455 Definitions.—As used in this part, unless the  
348 context clearly requires otherwise, the term:

349           (34) "Involuntary examination" means an examination  
350 performed under s. 394.463 to determine if an individual  
351 qualifies for involuntary inpatient treatment under s.  
352 394.467(1) or involuntary outpatient treatment under s.  
353 394.4655(2) ~~394.4655(1)~~.

354           Section 8. Subsection (3) of section 394.4615, Florida  
355 Statutes, is amended to read:

356           394.4615 Clinical records; confidentiality.—

357           (3) Information from the clinical record may be released in  
358 the following circumstances:



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359 (a) When a patient has declared an intention to harm other  
360 persons. When such declaration has been made, the administrator  
361 may authorize the release of sufficient information to provide  
362 adequate warning to the person threatened with harm by the  
363 patient.

364 (b) When the administrator of the facility or secretary of  
365 the department deems release to a qualified researcher as  
366 defined in administrative rule, an aftercare treatment provider,  
367 or an employee or agent of the department is necessary for  
368 treatment of the patient, maintenance of adequate records,  
369 compilation of treatment data, aftercare planning, or evaluation  
370 of programs.

371  
372 For the purpose of determining whether a person meets the  
373 criteria for involuntary outpatient placement or for preparing  
374 the proposed treatment plan pursuant to s. 394.4655, the  
375 clinical record may be released to the state attorney, the  
376 public defender or the patient's private legal counsel, the  
377 court, and to the appropriate mental health professionals,  
378 including the service provider identified in s. 394.4655(7)(b)2.  
379 ~~394.4655(6)(b)2.~~, in accordance with state and federal law.

380 Section 9. Section 394.47891, Florida Statutes, is amended  
381 to read:

382 394.47891 Military veterans and servicemembers court  
383 programs.—The chief judge of each judicial circuit may establish  
384 a Military Veterans and Servicemembers Court Program under which  
385 veterans, as defined in s. 1.01, including veterans who were  
386 discharged or released under a general discharge, and  
387 servicemembers, as defined in s. 250.01, who are charged or



388 convicted of a criminal offense and who suffer from a military-  
389 related mental illness, traumatic brain injury, substance abuse  
390 disorder, or psychological problem can be sentenced in  
391 accordance with chapter 921 in a manner that appropriately  
392 addresses the severity of the mental illness, traumatic brain  
393 injury, substance abuse disorder, or psychological problem  
394 through services tailored to the individual needs of the  
395 participant. Entry into any Military Veterans and Servicemembers  
396 Court Program must be based upon the sentencing court's  
397 assessment of the defendant's criminal history, military  
398 service, substance abuse treatment needs, mental health  
399 treatment needs, amenability to the services of the program, the  
400 recommendation of the state attorney and the victim, if any, and  
401 the defendant's agreement to enter the program.

402 Section 10. Section 394.47892, Florida Statutes, is created  
403 to read:

404 394.47892 Mental health court programs.-

405 (1) Each county may fund a mental health court program  
406 under which a defendant in the justice system assessed with a  
407 mental illness shall be processed in such a manner as to  
408 appropriately address the severity of the identified mental  
409 illness through treatment services tailored to the individual  
410 needs of the participant. The Legislature intends to encourage  
411 the department, the Department of Corrections, the Department of  
412 Juvenile Justice, the Department of Health, the Department of  
413 Law Enforcement, the Department of Education, and other such  
414 agencies, local governments, law enforcement agencies,  
415 interested public or private entities, and individuals to  
416 support the creation and establishment of problem-solving court



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417 programs. Participation in a mental health court program does  
418 not relieve a public or private agency of its responsibility for  
419 a child or an adult, but enables such agency to better meet the  
420 child's or adult's needs through shared responsibility and  
421 resources.

422 (2) Mental health court programs may include pretrial  
423 intervention programs as provided in ss. 948.08, 948.16, and  
424 985.345, postadjudicatory mental health court programs as  
425 provided in ss. 948.01 and 948.06, and review of the status of  
426 compliance or noncompliance of sentenced defendants through a  
427 mental health court program.

428 (3) Entry into a pretrial mental health court program is  
429 voluntary.

430 (4) (a) Entry into a postadjudicatory mental health court  
431 program as a condition of probation or community control  
432 pursuant to s. 948.01 or s. 948.06 must be based upon the  
433 sentencing court's assessment of the defendant's criminal  
434 history, mental health screening outcome, amenability to the  
435 services of the program, and total sentence points; the  
436 recommendation of the state attorney and the victim, if any; and  
437 the defendant's agreement to enter the program.

438 (b) A defendant who is sentenced to a postadjudicatory  
439 mental health court program and who, while a mental health court  
440 program participant, is the subject of a violation of probation  
441 or community control under s. 948.06 shall have the violation of  
442 probation or community control heard by the judge presiding over  
443 the postadjudicatory mental health court program. After a  
444 hearing on or admission of the violation, the judge shall  
445 dispose of any such violation as he or she deems appropriate if





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446 the resulting sentence or conditions are lawful.

447 (5) (a) Contingent upon an annual appropriation by the  
448 Legislature, the state courts system shall establish, at a  
449 minimum, one coordinator position in each mental health court  
450 program to coordinate the responsibilities of the participating  
451 agencies and service providers. Each coordinator shall provide  
452 direct support to the mental health court program by providing  
453 coordination between the multidisciplinary team and the  
454 judiciary, providing case management, monitoring compliance of  
455 the participants in the mental health court program with court  
456 requirements, and managing the collection of data for program  
457 evaluation and accountability.

458 (b) Each mental health court program shall collect  
459 sufficient client-level data and programmatic information for  
460 purposes of program evaluation. Client-level data includes  
461 primary offenses that resulted in the mental health court  
462 program referral or sentence, treatment compliance, completion  
463 status and reasons for failure to complete, offenses committed  
464 during treatment and the sanctions imposed, frequency of court  
465 appearances, and units of service. Programmatic information  
466 includes referral and screening procedures, eligibility  
467 criteria, type and duration of treatment offered, and  
468 residential treatment resources. The programmatic information  
469 and aggregate data on the number of mental health court program  
470 admissions and terminations by type of termination shall be  
471 reported annually by each mental health court program to the  
472 Office of the State Courts Administrator.

473 (6) If a county chooses to fund a mental health court  
474 program, the county must secure funding from sources other than



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475 the state for those costs not otherwise assumed by the state  
476 pursuant to s. 29.004. However, this subsection does not  
477 preclude counties from using funds for treatment and other  
478 services provided through state executive branch agencies.  
479 Counties may provide, by interlocal agreement, for the  
480 collective funding of these programs.

481 (7) The chief judge of each judicial circuit may appoint an  
482 advisory committee for the mental health court program. The  
483 committee shall be composed of the chief judge, or his or her  
484 designee, who shall serve as chair; the judge or judges of the  
485 mental health court program, if not otherwise designated by the  
486 chief judge as his or her designee; the state attorney, or his  
487 or her designee; the public defender, or his or her designee;  
488 the mental health court program coordinator or coordinators;  
489 community representatives; treatment representatives; and any  
490 other persons who the chair deems appropriate.

491 Section 11. Paragraph (a) of subsection (2) of section  
492 790.065, Florida Statutes, is amended to read:

493 790.065 Sale and delivery of firearms.-

494 (2) Upon receipt of a request for a criminal history record  
495 check, the Department of Law Enforcement shall, during the  
496 licensee's call or by return call, forthwith:

497 (a) Review any records available to determine if the  
498 potential buyer or transferee:

499 1. Has been convicted of a felony and is prohibited from  
500 receipt or possession of a firearm pursuant to s. 790.23;

501 2. Has been convicted of a misdemeanor crime of domestic  
502 violence, and therefore is prohibited from purchasing a firearm;

503 3. Has had adjudication of guilt withheld or imposition of



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504 sentence suspended on any felony or misdemeanor crime of  
505 domestic violence unless 3 years have elapsed since probation or  
506 any other conditions set by the court have been fulfilled or  
507 expunction has occurred; or

508 4. Has been adjudicated mentally defective or has been  
509 committed to a mental institution by a court or as provided in  
510 sub-sub-subparagraph b.(II), and as a result is prohibited by  
511 state or federal law from purchasing a firearm.

512 a. As used in this subparagraph, "adjudicated mentally  
513 defective" means a determination by a court that a person, as a  
514 result of marked subnormal intelligence, or mental illness,  
515 incompetency, condition, or disease, is a danger to himself or  
516 herself or to others or lacks the mental capacity to contract or  
517 manage his or her own affairs. The phrase includes a judicial  
518 finding of incapacity under s. 744.331(6)(a), an acquittal by  
519 reason of insanity of a person charged with a criminal offense,  
520 and a judicial finding that a criminal defendant is not  
521 competent to stand trial.

522 b. As used in this subparagraph, "committed to a mental  
523 institution" means:

524 (I) Involuntary commitment, commitment for mental  
525 defectiveness or mental illness, and commitment for substance  
526 abuse. The phrase includes involuntary inpatient placement as  
527 defined in s. 394.467, involuntary outpatient placement as  
528 defined in s. 394.4655, involuntary assessment and stabilization  
529 under s. 397.6818, and involuntary substance abuse treatment  
530 under s. 397.6957, but does not include a person in a mental  
531 institution for observation or discharged from a mental  
532 institution based upon the initial review by the physician or a



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533 voluntary admission to a mental institution; or

534 (II) Notwithstanding sub-sub-subparagraph (I), voluntary  
535 admission to a mental institution for outpatient or inpatient  
536 treatment of a person who had an involuntary examination under  
537 s. 394.463, where each of the following conditions have been  
538 met:

539 (A) An examining physician found that the person is an  
540 imminent danger to himself or herself or others.

541 (B) The examining physician certified that if the person  
542 did not agree to voluntary treatment, a petition for involuntary  
543 outpatient or inpatient treatment would have been filed under s.  
544 394.463(2)(i)4., or the examining physician certified that a  
545 petition was filed and the person subsequently agreed to  
546 voluntary treatment prior to a court hearing on the petition.

547 (C) Before agreeing to voluntary treatment, the person  
548 received written notice of that finding and certification, and  
549 written notice that as a result of such finding, he or she may  
550 be prohibited from purchasing a firearm, and may not be eligible  
551 to apply for or retain a concealed weapon or firearms license  
552 under s. 790.06 and the person acknowledged such notice in  
553 writing, in substantially the following form:

554

555 "I understand that the doctor who examined me believes I am a  
556 danger to myself or to others. I understand that if I do not  
557 agree to voluntary treatment, a petition will be filed in court  
558 to require me to receive involuntary treatment. I understand  
559 that if that petition is filed, I have the right to contest it.  
560 In the event a petition has been filed, I understand that I can  
561 subsequently agree to voluntary treatment prior to a court



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562 hearing. I understand that by agreeing to voluntary treatment in  
563 either of these situations, I may be prohibited from buying  
564 firearms and from applying for or retaining a concealed weapons  
565 or firearms license until I apply for and receive relief from  
566 that restriction under Florida law.”

567

568 (D) A judge or a magistrate has, pursuant to sub-sub-  
569 subparagraph c.(II), reviewed the record of the finding,  
570 certification, notice, and written acknowledgment classifying  
571 the person as an imminent danger to himself or herself or  
572 others, and ordered that such record be submitted to the  
573 department.

574 c. In order to check for these conditions, the department  
575 shall compile and maintain an automated database of persons who  
576 are prohibited from purchasing a firearm based on court records  
577 of adjudications of mental defectiveness or commitments to  
578 mental institutions.

579 (I) Except as provided in sub-sub-subparagraph (II), clerks  
580 of court shall submit these records to the department within 1  
581 month after the rendition of the adjudication or commitment.  
582 Reports shall be submitted in an automated format. The reports  
583 must, at a minimum, include the name, along with any known alias  
584 or former name, the sex, and the date of birth of the subject.

585 (II) For persons committed to a mental institution pursuant  
586 to sub-sub-subparagraph b.(II), within 24 hours after the  
587 person's agreement to voluntary admission, a record of the  
588 finding, certification, notice, and written acknowledgment must  
589 be filed by the administrator of the receiving or treatment  
590 facility, as defined in s. 394.455, with the clerk of the court



591 for the county in which the involuntary examination under s.  
592 394.463 occurred. No fee shall be charged for the filing under  
593 this sub-sub-subparagraph. The clerk must present the records to  
594 a judge or magistrate within 24 hours after receipt of the  
595 records. A judge or magistrate is required and has the lawful  
596 authority to review the records ex parte and, if the judge or  
597 magistrate determines that the record supports the classifying  
598 of the person as an imminent danger to himself or herself or  
599 others, to order that the record be submitted to the department.  
600 If a judge or magistrate orders the submittal of the record to  
601 the department, the record must be submitted to the department  
602 within 24 hours.

603 d. A person who has been adjudicated mentally defective or  
604 committed to a mental institution, as those terms are defined in  
605 this paragraph, may petition the ~~circuit~~ court that made the  
606 adjudication or commitment, or the court that ordered that the  
607 record be submitted to the department pursuant to sub-sub-  
608 subparagraph c.(II), for relief from the firearm disabilities  
609 imposed by such adjudication or commitment. A copy of the  
610 petition shall be served on the state attorney for the county in  
611 which the person was adjudicated or committed. The state  
612 attorney may object to and present evidence relevant to the  
613 relief sought by the petition. The hearing on the petition may  
614 be open or closed as the petitioner may choose. The petitioner  
615 may present evidence and subpoena witnesses to appear at the  
616 hearing on the petition. The petitioner may confront and cross-  
617 examine witnesses called by the state attorney. A record of the  
618 hearing shall be made by a certified court reporter or by court-  
619 approved electronic means. The court shall make written findings



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620 of fact and conclusions of law on the issues before it and issue  
621 a final order. The court shall grant the relief requested in the  
622 petition if the court finds, based on the evidence presented  
623 with respect to the petitioner's reputation, the petitioner's  
624 mental health record and, if applicable, criminal history  
625 record, the circumstances surrounding the firearm disability,  
626 and any other evidence in the record, that the petitioner will  
627 not be likely to act in a manner that is dangerous to public  
628 safety and that granting the relief would not be contrary to the  
629 public interest. If the final order denies relief, the  
630 petitioner may not petition again for relief from firearm  
631 disabilities until 1 year after the date of the final order. The  
632 petitioner may seek judicial review of a final order denying  
633 relief in the district court of appeal having jurisdiction over  
634 the court that issued the order. The review shall be conducted  
635 de novo. Relief from a firearm disability granted under this  
636 sub-subparagraph has no effect on the loss of civil rights,  
637 including firearm rights, for any reason other than the  
638 particular adjudication of mental defectiveness or commitment to  
639 a mental institution from which relief is granted.

640 e. Upon receipt of proper notice of relief from firearm  
641 disabilities granted under sub-subparagraph d., the department  
642 shall delete any mental health record of the person granted  
643 relief from the automated database of persons who are prohibited  
644 from purchasing a firearm based on court records of  
645 adjudications of mental defectiveness or commitments to mental  
646 institutions.

647 f. The department is authorized to disclose data collected  
648 pursuant to this subparagraph to agencies of the Federal



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649 Government and other states for use exclusively in determining  
650 the lawfulness of a firearm sale or transfer. The department is  
651 also authorized to disclose this data to the Department of  
652 Agriculture and Consumer Services for purposes of determining  
653 eligibility for issuance of a concealed weapons or concealed  
654 firearms license and for determining whether a basis exists for  
655 revoking or suspending a previously issued license pursuant to  
656 s. 790.06(10). When a potential buyer or transferee appeals a  
657 nonapproval based on these records, the clerks of court and  
658 mental institutions shall, upon request by the department,  
659 provide information to help determine whether the potential  
660 buyer or transferee is the same person as the subject of the  
661 record. Photographs and any other data that could confirm or  
662 negate identity must be made available to the department for  
663 such purposes, notwithstanding any other provision of state law  
664 to the contrary. Any such information that is made confidential  
665 or exempt from disclosure by law shall retain such confidential  
666 or exempt status when transferred to the department.

667 Section 12. Paragraph (a) of subsection (5) of section  
668 910.035, Florida Statutes, is amended to read:

669 910.035 Transfer from county for plea, sentence, or  
670 participation in a problem-solving court.—

671 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

672 (a) For purposes of this subsection, the term "problem-  
673 solving court" means a drug court pursuant to s. 948.01, s.  
674 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans'  
675 and servicemembers' court pursuant to s. 394.47891, s. 948.08,  
676 s. 948.16, or s. 948.21; ~~or~~ a mental health court program  
677 pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s.





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678 948.16; or a delinquency pretrial intervention court program  
679 pursuant to s. 985.345.

680 Section 13. Section 916.185, Florida Statutes, is created  
681 to read:

682 916.185 Forensic Hospital Diversion Pilot Program.—

683 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
684 that many jail inmates who have serious mental illnesses and who  
685 are committed to state forensic mental health treatment  
686 facilities for restoration of competency to proceed could be  
687 served more effectively and at less cost in community-based  
688 alternative programs. The Legislature further finds that many  
689 people who have serious mental illnesses and who have been  
690 discharged from state forensic mental health treatment  
691 facilities could avoid returning to the criminal justice and  
692 forensic mental health systems if they received specialized  
693 treatment in the community. Therefore, it is the intent of the  
694 Legislature to create the Forensic Hospital Diversion Pilot  
695 Program to serve offenders who have mental illnesses or co-  
696 occurring mental illnesses and substance use disorders and who  
697 are involved in or at risk of entering state forensic mental  
698 health treatment facilities, prisons, jails, or state civil  
699 mental health treatment facilities.

700 (2) DEFINITIONS.—As used in this section, the term:

701 (a) "Best practices" means treatment services that  
702 incorporate the most effective and acceptable interventions  
703 available in the care and treatment of offenders who are  
704 diagnosed as having mental illnesses or co-occurring mental  
705 illnesses and substance use disorders.

706 (b) "Community forensic system" means the community mental



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707 health and substance use forensic treatment system, including  
708 the comprehensive set of services and supports provided to  
709 offenders involved in or at risk of becoming involved in the  
710 criminal justice system.

711 (c) "Evidence-based practices" means interventions and  
712 strategies that, based on the best available empirical research,  
713 demonstrate effective and efficient outcomes in the care and  
714 treatment of offenders who are diagnosed as having mental  
715 illnesses or co-occurring mental illnesses and substance use  
716 disorders.

717 (3) CREATION.—There is authorized a Forensic Hospital  
718 Diversion Pilot Program to provide competency-restoration and  
719 community-reintegration services in either a locked residential  
720 treatment facility when appropriate or a community-based  
721 facility based on considerations of public safety, the needs of  
722 the individual, and available resources.

723 (a) The department may implement a Forensic Hospital  
724 Diversion Pilot Program modeled after the Miami-Dade Forensic  
725 Alternative Center, taking into account local needs and  
726 resources in Duval County, in conjunction with the Fourth  
727 Judicial Circuit in Duval County; in Broward County, in  
728 conjunction with the Seventeenth Judicial Circuit in Broward  
729 County; and in Miami-Dade County, in conjunction with the  
730 Eleventh Judicial Circuit in Miami-Dade County.

731 (b) If the department elects to create and implement the  
732 program, the department shall include a comprehensive continuum  
733 of care and services that use evidence-based practices and best  
734 practices to treat offenders who have mental health and co-  
735 occurring substance use disorders.



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736 (c) The department and the corresponding judicial circuits  
737 may implement this section if existing resources are available  
738 to do so on a recurring basis. The department may request budget  
739 amendments pursuant to chapter 216 to realign funds between  
740 mental health services and community substance abuse and mental  
741 health services in order to implement this pilot program.

742 (4) ELIGIBILITY.—Participation in the Forensic Hospital  
743 Diversion Pilot Program is limited to offenders who:

744 (a) Are 18 years of age or older.

745 (b) Are charged with a felony of the second degree or a  
746 felony of the third degree.

747 (c) Do not have a significant history of violent criminal  
748 offenses.

749 (d) Are adjudicated incompetent to proceed to trial or not  
750 guilty by reason of insanity pursuant to this part.

751 (e) Meet public safety and treatment criteria established  
752 by the department for placement in a community setting.

753 (f) Otherwise would be admitted to a state mental health  
754 treatment facility.

755 (5) TRAINING.—The Legislature encourages the Florida  
756 Supreme Court, in consultation and cooperation with the Florida  
757 Supreme Court Task Force on Substance Abuse and Mental Health  
758 Issues in the Courts, to develop educational training for judges  
759 in the pilot program areas which focuses on the community  
760 forensic system.

761 (6) RULEMAKING.—The department may adopt rules to  
762 administer this section.

763 Section 14. Subsections (6) through (13) of section  
764 948.001, Florida Statutes, are renumbered as subsections (7)



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765 through (14), respectively, and a new subsection (6) is added to  
766 that section, to read:

767 948.001 Definitions.—As used in this chapter, the term:

768 (6) "Mental health probation" means a form of specialized  
769 supervision that emphasizes mental health treatment and working  
770 with treatment providers to focus on underlying mental health  
771 disorders and compliance with a prescribed psychotropic  
772 medication regimen in accordance with individualized treatment  
773 plans. Mental health probation shall be supervised by officers  
774 with restricted caseloads who are sensitive to the unique needs  
775 of individuals with mental health disorders, and who will work  
776 in tandem with community mental health case managers assigned to  
777 the defendant. Caseloads of such officers should be restricted  
778 to a maximum of 50 cases per officer in order to ensure an  
779 adequate level of staffing and supervision.

780 Section 15. Subsection (8) is added to section 948.01,  
781 Florida Statutes, to read:

782 948.01 When court may place defendant on probation or into  
783 community control.—

784 (8) (a) Notwithstanding s. 921.0024 and effective for  
785 offenses committed on or after July 1, 2016, the sentencing  
786 court may place the defendant into a postadjudicatory mental  
787 health court program if the offense is a nonviolent felony, the  
788 defendant is amenable to mental health treatment, including  
789 taking prescribed medications, and the defendant is otherwise  
790 qualified under s. 394.47892(4). The satisfactory completion of  
791 the program must be a condition of the defendant's probation or  
792 community control. As used in this subsection, the term  
793 "nonviolent felony" means a third degree felony violation under



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794 chapter 810 or any other felony offense that is not a forcible  
795 felony as defined in s. 776.08. Defendants charged with  
796 resisting an officer with violence under s. 843.01, battery on a  
797 law enforcement officer under s. 784.07, or aggravated assault  
798 may participate in the mental health court program if the court  
799 so orders after the victim is given his or her right to provide  
800 testimony or written statement to the court as provided in s.  
801 921.143.

802 (b) The defendant must be fully advised of the purpose of  
803 the mental health court program and the defendant must agree to  
804 enter the program. The original sentencing court shall  
805 relinquish jurisdiction of the defendant's case to the  
806 postadjudicatory mental health court program until the defendant  
807 is no longer active in the program, the case is returned to the  
808 sentencing court due to the defendant's termination from the  
809 program for failure to comply with the terms thereof, or the  
810 defendant's sentence is completed.

811 (c) The Department of Corrections may establish designated  
812 and trained mental health probation officers to support  
813 individuals under supervision of the mental health court  
814 program.

815 Section 16. Paragraph (j) is added to subsection (2) of  
816 section 948.06, Florida Statutes, to read:

817 948.06 Violation of probation or community control;  
818 revocation; modification; continuance; failure to pay  
819 restitution or cost of supervision.—

820 (2)

821 (j)1. Notwithstanding s. 921.0024 and effective for  
822 offenses committed on or after July 1, 2016, the court may order



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823 the offender to successfully complete a postadjudicatory mental  
824 health court program under s. 394.47892 or a military veterans  
825 and servicemembers court program under s. 394.47891 if:

826 a. The court finds or the offender admits that the offender  
827 has violated his or her community control or probation;

828 b. The underlying offense is a nonviolent felony. As used  
829 in this subsection, the term "nonviolent felony" means a third  
830 degree felony violation under chapter 810 or any other felony  
831 offense that is not a forcible felony as defined in s. 776.08.  
832 Offenders charged with resisting an officer with violence under  
833 s. 843.01, battery on a law enforcement officer under s. 784.07,  
834 or aggravated assault may participate in the mental health court  
835 program if the court so orders after the victim is given his or  
836 her right to provide testimony or written statement to the court  
837 as provided in s. 921.143;

838 c. The court determines that the offender is amenable to  
839 the services of a postadjudicatory mental health court program,  
840 including taking prescribed medications, or a military veterans  
841 and servicemembers court program;

842 d. The court explains the purpose of the program to the  
843 offender and the offender agrees to participate; and

844 e. The offender is otherwise qualified to participate in a  
845 postadjudicatory mental health court program under s.  
846 394.47892(4) or a military veterans and servicemembers court  
847 program under s. 394.47891.

848 2. After the court orders the modification of community  
849 control or probation, the original sentencing court shall  
850 relinquish jurisdiction of the offender's case to the  
851 postadjudicatory mental health court program until the offender



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852 is no longer active in the program, the case is returned to the  
853 sentencing court due to the offender's termination from the  
854 program for failure to comply with the terms thereof, or the  
855 offender's sentence is completed.

856 Section 17. Subsection (8) of section 948.08, Florida  
857 Statutes, is renumbered as subsection (9), paragraph (a) of  
858 subsection (7) is amended, and a new subsection (8) is added to  
859 that section, to read:

860 948.08 Pretrial intervention program.—

861 (7) (a) Notwithstanding any provision of this section, a  
862 person who is charged with a felony, other than a felony listed  
863 in s. 948.06(8)(c), and identified as a veteran, as defined in  
864 s. 1.01, including a veteran who is discharged or released under  
865 a general discharge, or servicemember, as defined in s. 250.01,  
866 who suffers from a military service-related mental illness,  
867 traumatic brain injury, substance abuse disorder, or  
868 psychological problem, is eligible for voluntary admission into  
869 a pretrial veterans' treatment intervention program approved by  
870 the chief judge of the circuit, upon motion of either party or  
871 the court's own motion, except:

872 1. If a defendant was previously offered admission to a  
873 pretrial veterans' treatment intervention program at any time  
874 before trial and the defendant rejected that offer on the  
875 record, the court may deny the defendant's admission to such a  
876 program.

877 2. If a defendant previously entered a court-ordered  
878 veterans' treatment program, the court may deny the defendant's  
879 admission into the pretrial veterans' treatment program.

880 (8) (a) Notwithstanding any provision of this section, a



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881 defendant is eligible for voluntary admission into a pretrial  
882 mental health court program established pursuant to s. 394.47892  
883 and approved by the chief judge of the circuit for a period to  
884 be determined by the court, based on the clinical needs of the  
885 defendant, upon motion of either party or the court's own motion  
886 if:

887 1. The defendant is identified as having a mental illness;

888 2. The defendant has not been convicted of a felony; and

889 3. The defendant is charged with:

890 a. A nonviolent felony that includes a third degree felony  
891 violation of chapter 810 or any other felony offense that is not  
892 a forcible felony as defined in s. 776.08;

893 b. Resisting an officer with violence under s. 843.01, if  
894 the law enforcement officer and state attorney consent to the  
895 defendant's participation;

896 c. Battery on a law enforcement officer under s. 784.07, if  
897 the law enforcement officer and state attorney consent to the  
898 defendant's participation; or

899 d. Aggravated assault, if the victim and state attorney  
900 consent to the defendant's participation.

901 (b) At the end of the pretrial intervention period, the  
902 court shall consider the recommendation of the program  
903 administrator and the recommendation of the state attorney as to  
904 disposition of the pending charges. The court shall determine,  
905 by written finding, whether the defendant has successfully  
906 completed the pretrial intervention program. If the court finds  
907 that the defendant has not successfully completed the pretrial  
908 intervention program, the court may order the person to continue  
909 in education and treatment, which may include a mental health





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910 program offered by a licensed service provider, as defined in s.  
911 394.455, or order that the charges revert to normal channels for  
912 prosecution. The court shall dismiss the charges upon a finding  
913 that the defendant has successfully completed the pretrial  
914 intervention program.

915 Section 18. Subsections (3) and (4) of section 948.16,  
916 Florida Statutes, are renumbered as subsections (4) and (5),  
917 respectively, paragraph (a) of subsection (2) and present  
918 subsection (4) of that section are amended, and a new subsection  
919 (3) is added to that section, to read:

920 948.16 Misdemeanor pretrial substance abuse education and  
921 treatment intervention program; misdemeanor pretrial veterans'  
922 treatment intervention program; misdemeanor pretrial mental  
923 health court program.-

924 (2) (a) A veteran, as defined in s. 1.01, including a  
925 veteran who is discharged or released under a general discharge,  
926 or servicemember, as defined in s. 250.01, who suffers from a  
927 military service-related mental illness, traumatic brain injury,  
928 substance abuse disorder, or psychological problem, and who is  
929 charged with a misdemeanor is eligible for voluntary admission  
930 into a misdemeanor pretrial veterans' treatment intervention  
931 program approved by the chief judge of the circuit, for a period  
932 based on the program's requirements and the treatment plan for  
933 the offender, upon motion of either party or the court's own  
934 motion. However, the court may deny the defendant admission into  
935 a misdemeanor pretrial veterans' treatment intervention program  
936 if the defendant has previously entered a court-ordered  
937 veterans' treatment program.

938 (3) A defendant who is charged with a misdemeanor and



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939 identified as having a mental illness is eligible for voluntary  
940 admission into a misdemeanor pretrial mental health court  
941 program established pursuant to s. 394.47892, approved by the  
942 chief judge of the circuit, for a period to be determined by the  
943 court, based on the clinical needs of the defendant, upon motion  
944 of either party or the court's own motion.

945 (5)-(4) Any public or private entity providing a pretrial  
946 substance abuse education and treatment program or mental health  
947 court program under this section shall contract with the county  
948 or appropriate governmental entity. The terms of the contract  
949 shall include, but not be limited to, the requirements  
950 established for private entities under s. 948.15(3). This  
951 requirement does not apply to services provided by the  
952 Department of Veterans' Affairs or the United States Department  
953 of Veterans Affairs.

954 Section 19. Section 948.21, Florida Statutes, is amended to  
955 read:

956 948.21 Condition of probation or community control;  
957 military servicemembers and veterans.-

958 (1) Effective for a probationer or community controllee  
959 whose crime is ~~was~~ committed on or after July 1, 2012, and who  
960 is a veteran, as defined in s. 1.01, or servicemember, as  
961 defined in s. 250.01, who suffers from a military service-  
962 related mental illness, traumatic brain injury, substance abuse  
963 disorder, or psychological problem, the court may, in addition  
964 to any other conditions imposed, impose a condition requiring  
965 the probationer or community controllee to participate in a  
966 treatment program capable of treating the probationer's  
967 ~~probationer~~ or community controllee's mental illness, traumatic



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968 brain injury, substance abuse disorder, or psychological  
969 problem.

970 (2) Effective for a probationer or community controllee  
971 whose crime is committed on or after July 1, 2016, and who is a  
972 veteran, as defined in s. 1.01, including a veteran who is  
973 discharged or released under a general discharge, or  
974 servicemember, as defined in s. 250.01, who suffers from a  
975 military service-related mental illness, traumatic brain injury,  
976 substance abuse disorder, or psychological problem, the court  
977 may, in addition to any other conditions imposed, impose a  
978 condition requiring the probationer or community controllee to  
979 participate in a treatment program capable of treating the  
980 probationer or community controllee's mental illness, traumatic  
981 brain injury, substance abuse disorder, or psychological  
982 problem.

983 (3) The court shall give preference to treatment programs  
984 for which the probationer or community controllee is eligible  
985 through the United States Department of Veterans Affairs or the  
986 Florida Department of Veterans' Affairs. The Department of  
987 Corrections is not required to spend state funds to implement  
988 this section.

989 Section 20. Section 985.345, Florida Statutes, is amended  
990 to read:

991 985.345 Delinquency pretrial intervention programs  
992 ~~program.~~

993 (1) (a) Notwithstanding any other provision of law to the  
994 contrary, a child who is charged with a felony of the second or  
995 third degree for purchase or possession of a controlled  
996 substance under chapter 893; tampering with evidence;



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997 solicitation for purchase of a controlled substance; or  
998 obtaining a prescription by fraud, and who has not previously  
999 been adjudicated for a felony, is eligible for voluntary  
1000 admission into a delinquency pretrial substance abuse education  
1001 and treatment intervention program, including a treatment-based  
1002 drug court program established pursuant to s. 397.334, approved  
1003 by the chief judge or alternative sanctions coordinator of the  
1004 circuit to the extent that funded programs are available, for a  
1005 period based on the program requirements and the treatment  
1006 services that are suitable for the offender, upon motion of  
1007 either party or the court's own motion. However, if the state  
1008 attorney believes that the facts and circumstances of the case  
1009 suggest the child's involvement in the dealing and selling of  
1010 controlled substances, the court shall hold a preadmission  
1011 hearing. If the state attorney establishes by a preponderance of  
1012 the evidence at such hearing that the child was involved in the  
1013 dealing and selling of controlled substances, the court shall  
1014 deny the child's admission into a delinquency pretrial  
1015 intervention program.

1016 (b) ~~(2)~~ While enrolled in a delinquency pretrial  
1017 intervention program authorized by this subsection ~~section~~, a  
1018 child is subject to a coordinated strategy developed by a drug  
1019 court team under s. 397.334(4). The coordinated strategy may  
1020 include a protocol of sanctions that may be imposed upon the  
1021 child for noncompliance with program rules. The protocol of  
1022 sanctions may include, but is not limited to, placement in a  
1023 substance abuse treatment program offered by a licensed service  
1024 provider as defined in s. 397.311 or serving a period of secure  
1025 detention under this chapter. The coordinated strategy must be



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1026 provided in writing to the child before the child agrees to  
1027 enter the pretrial treatment-based drug court program or other  
1028 pretrial intervention program. A ~~Any~~ child whose charges are  
1029 dismissed after successful completion of the treatment-based  
1030 drug court program, if otherwise eligible, may have his or her  
1031 arrest record and plea of nolo contendere to the dismissed  
1032 charges expunged under s. 943.0585.

1033 (c) ~~(3)~~ At the end of the delinquency pretrial intervention  
1034 period, the court shall consider the recommendation of the state  
1035 attorney and the program administrator as to disposition of the  
1036 pending charges. The court shall determine, by written finding,  
1037 whether the child has successfully completed the delinquency  
1038 pretrial intervention program. Notwithstanding the coordinated  
1039 strategy developed by a drug court team pursuant to s.  
1040 397.334(4), if the court finds that the child has not  
1041 successfully completed the delinquency pretrial intervention  
1042 program, the court may order the child to continue in an  
1043 education, treatment, or drug testing ~~urine monitoring~~ program  
1044 if resources and funding are available or order that the charges  
1045 revert to normal channels for prosecution. The court may dismiss  
1046 the charges upon a finding that the child has successfully  
1047 completed the delinquency pretrial intervention program.

1048 (2) (a) Notwithstanding any other law, a child who has been  
1049 identified as having a mental illness and who has not been  
1050 previously adjudicated for a felony is eligible for voluntary  
1051 admission into a delinquency pretrial mental health court  
1052 intervention program, established pursuant to s. 394.47892,  
1053 approved by the chief judge of the circuit, for a period to be  
1054 determined by the court, based on the clinical needs of the



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1055 child, upon motion of either party or the court's own motion if  
1056 the child is charged with:

1057 1. A misdemeanor;

1058 2. A nonviolent felony, as defined in s. 948.01(8);

1059 3. Resisting an officer with violence under s. 843.01, if

1060 the law enforcement officer and state attorney consent to the

1061 child's participation;

1062 4. Battery on a law enforcement officer under 784.07, if

1063 the law enforcement officer and state attorney consent to the

1064 child's participation; or

1065 5. Aggravated assault, if the victim and state attorney

1066 consent to the child's participation.

1067 (b) At the end of the delinquency pretrial mental health

1068 court intervention period, the court shall consider the

1069 recommendation of the state attorney and the program

1070 administrator as to disposition of the pending charges. The

1071 court shall determine, by written finding, whether the child has

1072 successfully completed the program. If the court finds that the

1073 child has not successfully completed the program, the court may

1074 order the child to continue in an education, treatment, or

1075 monitoring program if resources and funding are available or

1076 order that the charges revert to normal channels for

1077 prosecution. The court may dismiss the charges upon a finding

1078 that the child has successfully completed the program.

1079 (c) A child whose charges are dismissed after successful

1080 completion of the delinquency pretrial mental health court

1081 intervention program, if otherwise eligible, may have his or her

1082 criminal history record for such charges expunged under s.

1083 943.0585.



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1084            (3)~~(4)~~ Any entity, whether public or private, providing  
1085 pretrial substance abuse education, treatment intervention, drug  
1086 testing, or a mental health court and ~~a urine monitoring~~ program  
1087 under this section must contract with the county or appropriate  
1088 governmental entity, and the terms of the contract must include,  
1089 but need not be limited to, the requirements established for  
1090 private entities under s. 948.15(3). It is the intent of the  
1091 Legislature that public or private entities providing substance  
1092 abuse education and treatment intervention programs involve the  
1093 active participation of parents, schools, churches, businesses,  
1094 law enforcement agencies, and the department or its contract  
1095 providers.

1096            Section 21. For the purpose of incorporating the amendments  
1097 made by this act to sections 948.01 and 948.06, Florida  
1098 Statutes, in references thereto, paragraph (a) of subsection (3)  
1099 and subsection (5) of section 397.334, Florida Statutes, are  
1100 reenacted to read:

1101            397.334 Treatment-based drug court programs.—

1102            (3) (a) Entry into any postadjudicatory treatment-based drug  
1103 court program as a condition of probation or community control  
1104 pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based  
1105 upon the sentencing court's assessment of the defendant's  
1106 criminal history, substance abuse screening outcome, amenability  
1107 to the services of the program, total sentence points, the  
1108 recommendation of the state attorney and the victim, if any, and  
1109 the defendant's agreement to enter the program.

1110            (5) Treatment-based drug court programs may include  
1111 pretrial intervention programs as provided in ss. 948.08,  
1112 948.16, and 985.345, treatment-based drug court programs



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1113 authorized in chapter 39, postadjudicatory programs as provided  
1114 in ss. 948.01, 948.06, and 948.20, and review of the status of  
1115 compliance or noncompliance of sentenced offenders through a  
1116 treatment-based drug court program. While enrolled in a  
1117 treatment-based drug court program, the participant is subject  
1118 to a coordinated strategy developed by a drug court team under  
1119 subsection (4). The coordinated strategy may include a protocol  
1120 of sanctions that may be imposed upon the participant for  
1121 noncompliance with program rules. The protocol of sanctions may  
1122 include, but is not limited to, placement in a substance abuse  
1123 treatment program offered by a licensed service provider as  
1124 defined in s. 397.311 or in a jail-based treatment program or  
1125 serving a period of secure detention under chapter 985 if a  
1126 child or a period of incarceration within the time limits  
1127 established for contempt of court if an adult. The coordinated  
1128 strategy must be provided in writing to the participant before  
1129 the participant agrees to enter into a treatment-based drug  
1130 court program.

1131 Section 22. For the purpose of incorporating the amendment  
1132 made by this act to section 948.06, Florida Statutes, in a  
1133 reference thereto, paragraph (b) of subsection (2) of section  
1134 948.012, Florida Statutes, is reenacted to read:

1135 948.012 Split sentence of probation or community control  
1136 and imprisonment.—

1137 (2) The court may also impose a split sentence whereby the  
1138 defendant is sentenced to a term of probation which may be  
1139 followed by a period of incarceration or, with respect to a  
1140 felony, into community control, as follows:

1141 (b) If the offender does not meet the terms and conditions





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1142 of probation or community control, the court may revoke, modify,  
1143 or continue the probation or community control as provided in s.  
1144 948.06. If the probation or community control is revoked, the  
1145 court may impose any sentence that it could have imposed at the  
1146 time the offender was placed on probation or community control.  
1147 The court may not provide credit for time served for any portion  
1148 of a probation or community control term toward a subsequent  
1149 term of probation or community control. However, the court may  
1150 not impose a subsequent term of probation or community control  
1151 which, when combined with any amount of time served on preceding  
1152 terms of probation or community control for offenses pending  
1153 before the court for sentencing, would exceed the maximum  
1154 penalty allowable as provided in s. 775.082. Such term of  
1155 incarceration shall be served under applicable law or county  
1156 ordinance governing service of sentences in state or county  
1157 jurisdiction. This paragraph does not prohibit any other  
1158 sanction provided by law.

1159 Section 23. This act shall take effect July 1, 2016.

1160  
1161 ===== T I T L E A M E N D M E N T =====

1162 And the title is amended as follows:

1163 Delete everything before the enacting clause  
1164 and insert:

1165 A bill to be entitled  
1166 An act relating to mental health services in the  
1167 criminal justice system; amending ss. 39.001, 39.507,  
1168 and 39.521, F.S.; conforming provisions to changes  
1169 made by the act; amending s. 394.4655, F.S.; defining  
1170 the terms "court" and "criminal county court" for



1171 purposes of involuntary outpatient placement;  
1172 conforming provisions to changes made by act; amending  
1173 ss. 394.4599 and 394.463, F.S.; conforming provisions  
1174 to changes made by act; conforming cross-references;  
1175 amending s. 394.455 and 394.4615, F.S.; conforming  
1176 cross-references; amending s. 394.47891, F.S.;  
1177 expanding eligibility for military veterans and  
1178 servicemembers court programs; creating s. 394.47892,  
1179 F.S.; authorizing the creation of treatment-based  
1180 mental health court programs; providing for  
1181 eligibility; providing program requirements; providing  
1182 for an advisory committee; amending s. 790.065, F.S.;  
1183 conforming a provision to changes made by this act;  
1184 amending s. 910.035, F.S.; revising the definition of  
1185 the term "problem-solving court"; creating s. 916.185,  
1186 F.S.; creating the Forensic Hospital Diversion Pilot  
1187 Program; providing legislative findings and intent;  
1188 providing definitions; authorizing the Department of  
1189 Children and Families to implement a Forensic Hospital  
1190 Diversion Pilot Program in specified judicial  
1191 circuits; authorizing the department to request  
1192 specified budget amendments; providing for eligibility  
1193 for the program; providing legislative intent  
1194 concerning training; authorizing rulemaking; amending  
1195 s. 948.001, F.S.; defining the term "mental health  
1196 probation"; amending ss. 948.01 and 948.06, F.S.;  
1197 authorizing courts to order certain offenders on  
1198 probation or community control to postadjudicatory  
1199 mental health court programs; amending s. 948.08,



1200 F.S.; expanding eligibility requirements for certain  
1201 pretrial intervention programs; providing for  
1202 voluntary admission into a pretrial mental health  
1203 court program; creating s. 916.185, F.S.; creating the  
1204 Forensic Hospital Diversion Pilot Program; providing  
1205 legislative findings and intent; providing  
1206 definitions; requiring the Department of Children and  
1207 Families to implement a Forensic Hospital Diversion  
1208 Pilot Program in specified judicial circuits;  
1209 providing for eligibility for the program; providing  
1210 legislative intent concerning training; authorizing  
1211 rulemaking; amending ss. 948.01 and 948.06, F.S.;  
1212 providing for courts to order certain defendants on  
1213 probation or community control to postadjudicatory  
1214 mental health court programs; amending s. 948.08,  
1215 F.S.; expanding eligibility requirements for certain  
1216 pretrial intervention programs; providing for  
1217 voluntary admission into pretrial mental health court  
1218 program; amending s. 948.16, F.S.; expanding  
1219 eligibility of veterans for a misdemeanor pretrial  
1220 veterans' treatment intervention program; providing  
1221 eligibility of misdemeanor defendants for a  
1222 misdemeanor pretrial mental health court program;  
1223 amending s. 948.21, F.S.; expanding veterans'  
1224 eligibility for participating in treatment programs  
1225 while on court-ordered probation or community control;  
1226 amending s. 985.345, F.S.; authorizing delinquency  
1227 pretrial mental health court intervention programs for  
1228 certain juvenile offenders; providing for disposition



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1229 of pending charges after completion of the program;  
1230 authorizing expunction of specified criminal history  
1231 records after successful completion of the program;  
1232 reenacting s. 397.334(3)(a) and (5), F.S., relating to  
1233 treatment-based drug court programs, to incorporate  
1234 the amendments made by the act to ss. 948.01 and  
1235 948.06, F.S., in references thereto; reenacting s.  
1236 948.012(2)(b), F.S., relating to split sentence  
1237 probation or community control and imprisonment, to  
1238 incorporate the amendment made by the act to s.  
1239 948.06, F.S., in a reference thereto; providing an  
1240 effective date.