

By the Committees on Appropriations; and Judiciary; and Senators Diaz de la Portilla, Hutson, and Gaetz

576-04804-16

2016604c2

1                   A bill to be entitled  
2           An act relating to mental health services in the  
3           criminal justice system; amending ss. 39.001, 39.507,  
4           and 39.521, F.S.; conforming provisions to changes  
5           made by the act; amending s. 394.4655, F.S.; defining  
6           the terms "court" and "criminal county court" for  
7           purposes of involuntary outpatient placement;  
8           conforming provisions to changes made by act; amending  
9           ss. 394.4599 and 394.463, F.S.; conforming provisions  
10          to changes made by act; conforming cross-references;  
11          amending s. 394.455 and 394.4615, F.S.; conforming  
12          cross-references; amending s. 394.47891, F.S.;  
13          expanding eligibility for military veterans and  
14          servicemembers court programs; creating s. 394.47892,  
15          F.S.; authorizing the creation of treatment-based  
16          mental health court programs; providing for  
17          eligibility; providing program requirements; providing  
18          for an advisory committee; amending s. 790.065, F.S.;  
19          conforming a provision to changes made by this act;  
20          amending s. 910.035, F.S.; revising the definition of  
21          the term "problem-solving court"; creating s. 916.185,  
22          F.S.; creating the Forensic Hospital Diversion Pilot  
23          Program; providing legislative findings and intent;  
24          providing definitions; authorizing the Department of  
25          Children and Families to implement a Forensic Hospital  
26          Diversion Pilot Program in specified judicial  
27          circuits; authorizing the department to request  
28          specified budget amendments; providing for eligibility  
29          for the program; providing legislative intent  
30          concerning training; authorizing rulemaking; amending  
31          s. 948.001, F.S.; defining the term "mental health

576-04804-16

2016604c2

32 probation"; amending ss. 948.01 and 948.06, F.S.;

33 authorizing courts to order certain offenders on

34 probation or community control to postadjudicatory

35 mental health court programs; amending s. 948.08,

36 F.S.; expanding eligibility requirements for certain

37 pretrial intervention programs; providing for

38 voluntary admission into a pretrial mental health

39 court program; creating s. 916.185, F.S.; creating the

40 Forensic Hospital Diversion Pilot Program; providing

41 legislative findings and intent; providing

42 definitions; requiring the Department of Children and

43 Families to implement a Forensic Hospital Diversion

44 Pilot Program in specified judicial circuits;

45 providing for eligibility for the program; providing

46 legislative intent concerning training; authorizing

47 rulemaking; amending ss. 948.01 and 948.06, F.S.;

48 providing for courts to order certain defendants on

49 probation or community control to postadjudicatory

50 mental health court programs; amending s. 948.08,

51 F.S.; expanding eligibility requirements for certain

52 pretrial intervention programs; providing for

53 voluntary admission into pretrial mental health court

54 program; amending s. 948.16, F.S.; expanding

55 eligibility of veterans for a misdemeanor pretrial

56 veterans' treatment intervention program; providing

57 eligibility of misdemeanor defendants for a

58 misdemeanor pretrial mental health court program;

59 amending s. 948.21, F.S.; expanding veterans'

60 eligibility for participating in treatment programs

576-04804-16

2016604c2

61 while on court-ordered probation or community control;  
62 amending s. 985.345, F.S.; authorizing delinquency  
63 pretrial mental health court intervention programs for  
64 certain juvenile offenders; providing for disposition  
65 of pending charges after completion of the program;  
66 authorizing expunction of specified criminal history  
67 records after successful completion of the program;  
68 reenacting s. 397.334(3)(a) and (5), F.S., relating to  
69 treatment-based drug court programs, to incorporate  
70 the amendments made by the act to ss. 948.01 and  
71 948.06, F.S., in references thereto; reenacting s.  
72 948.012(2)(b), F.S., relating to split sentence  
73 probation or community control and imprisonment, to  
74 incorporate the amendment made by the act to s.  
75 948.06, F.S., in a reference thereto; providing an  
76 effective date.

77

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

79

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

82 39.001 Purposes and intent; personnel standards and  
83 screening.—

84 (6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

85 (a) The Legislature recognizes that early referral and  
86 comprehensive treatment can help combat mental illnesses and  
87 substance abuse disorders in families and that treatment is  
88 cost-effective.

89 (b) The Legislature establishes the following goals for the

576-04804-16

2016604c2

90 state related to mental illness and substance abuse treatment  
91 services in the dependency process:

92 1. To ensure the safety of children.

93 2. To prevent and remediate the consequences of mental  
94 illnesses and substance abuse disorders on families involved in  
95 protective supervision or foster care and reduce the occurrences  
96 of mental illnesses and substance abuse disorders, including  
97 alcohol abuse or related disorders, for families who are at risk  
98 of being involved in protective supervision or foster care.

99 3. To expedite permanency for children and reunify healthy,  
100 intact families, when appropriate.

101 4. To support families in recovery.

102 (c) The Legislature finds that children in the care of the  
103 state's dependency system need appropriate health care services,  
104 that the impact of mental illnesses and substance abuse  
105 disorders on health indicates the need for health care services  
106 to include treatment for mental health and substance abuse  
107 disorders for ~~services to~~ children and parents, where  
108 appropriate, and that it is in the state's best interest that  
109 such children be provided the services they need to enable them  
110 to become and remain independent of state care. In order to  
111 provide these services, the state's dependency system must have  
112 the ability to identify and provide appropriate intervention and  
113 treatment for children with personal or family-related mental  
114 illness and substance abuse problems.

115 (d) It is the intent of the Legislature to encourage the  
116 use of the mental health court program model established under  
117 s. 394.47892 and the drug court program model established under  
118 ~~by~~ s. 397.334 and authorize courts to assess children and

576-04804-16

2016604c2

119 persons who have custody or are requesting custody of children  
120 where good cause is shown to identify and address mental  
121 illnesses and substance abuse disorders ~~problems~~ as the court  
122 deems appropriate at every stage of the dependency process.  
123 Participation in treatment, including a mental health court  
124 program or a treatment-based drug court program, may be required  
125 by the court following adjudication. Participation in assessment  
126 and treatment before ~~prior to~~ adjudication is ~~shall be~~  
127 voluntary, except as provided in s. 39.407(16).

128 (e) It is therefore the purpose of the Legislature to  
129 provide authority for the state to contract with mental health  
130 service providers and community substance abuse treatment  
131 providers for the development and operation of specialized  
132 support and overlay services for the dependency system, which  
133 will be fully implemented and used as resources permit.

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

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

141 39.507 Adjudicatory hearings; orders of adjudication.—

142 (10) After an adjudication of dependency, or a finding of  
143 dependency where adjudication is withheld, the court may order a  
144 person who has custody or is requesting custody of the child to  
145 submit to a mental health or substance abuse disorder assessment  
146 or evaluation. The assessment or evaluation must be administered  
147 by a qualified professional, as defined in s. 397.311. The court

576-04804-16

2016604c2

148 may also require such person to participate in and comply with  
149 treatment and services identified as necessary, including, when  
150 appropriate and available, participation in and compliance with  
151 a mental health court program established under s. 394.47892 or  
152 a treatment-based drug court program established under s.  
153 397.334. In addition to supervision by the department, the  
154 court, including the mental health court program or treatment-  
155 based drug court program, may oversee the progress and  
156 compliance with treatment by a person who has custody or is  
157 requesting custody of the child. The court may impose  
158 appropriate available sanctions for noncompliance upon a person  
159 who has custody or is requesting custody of the child or make a  
160 finding of noncompliance for consideration in determining  
161 whether an alternative placement of the child is in the child's  
162 best interests. Any order entered under this subsection may be  
163 made only upon good cause shown. This subsection does not  
164 authorize placement of a child with a person seeking custody,  
165 other than the parent or legal custodian, who requires mental  
166 health or substance abuse disorder treatment.

167 Section 3. Paragraph (b) of subsection (1) of section  
168 39.521, Florida Statutes, is amended to read:

169 39.521 Disposition hearings; powers of disposition.—

170 (1) A disposition hearing shall be conducted by the court,  
171 if the court finds that the facts alleged in the petition for  
172 dependency were proven in the adjudicatory hearing, or if the  
173 parents or legal custodians have consented to the finding of  
174 dependency or admitted the allegations in the petition, have  
175 failed to appear for the arraignment hearing after proper  
176 notice, or have not been located despite a diligent search

576-04804-16

2016604c2

177 having been conducted.

178 (b) When any child is adjudicated by a court to be  
179 dependent, the court having jurisdiction of the child has the  
180 power by order to:

181 1. Require the parent and, when appropriate, the legal  
182 custodian and the child to participate in treatment and services  
183 identified as necessary. The court may require the person who  
184 has custody or who is requesting custody of the child to submit  
185 to a mental health or substance abuse disorder assessment or  
186 evaluation. The assessment or evaluation must be administered by  
187 a qualified professional, as defined in s. 397.311. The court  
188 may also require such person to participate in and comply with  
189 treatment and services identified as necessary, including, when  
190 appropriate and available, participation in and compliance with  
191 a mental health court program established under s. 394.47892 or  
192 a treatment-based drug court program established under s.  
193 397.334. In addition to supervision by the department, the  
194 court, including the mental health court program or the  
195 treatment-based drug court program, may oversee the progress and  
196 compliance with treatment by a person who has custody or is  
197 requesting custody of the child. The court may impose  
198 appropriate available sanctions for noncompliance upon a person  
199 who has custody or is requesting custody of the child or make a  
200 finding of noncompliance for consideration in determining  
201 whether an alternative placement of the child is in the child's  
202 best interests. Any order entered under this subparagraph may be  
203 made only upon good cause shown. This subparagraph does not  
204 authorize placement of a child with a person seeking custody of  
205 the child, other than the child's parent or legal custodian, who

576-04804-16

2016604c2

206 requires mental health or substance abuse disorder treatment.

207 2. Require, if the court deems necessary, the parties to  
208 participate in dependency mediation.

209 3. Require placement of the child either under the  
210 protective supervision of an authorized agent of the department  
211 in the home of one or both of the child's parents or in the home  
212 of a relative of the child or another adult approved by the  
213 court, or in the custody of the department. Protective  
214 supervision continues until the court terminates it or until the  
215 child reaches the age of 18, whichever date is first. Protective  
216 supervision shall be terminated by the court whenever the court  
217 determines that permanency has been achieved for the child,  
218 whether with a parent, another relative, or a legal custodian,  
219 and that protective supervision is no longer needed. The  
220 termination of supervision may be with or without retaining  
221 jurisdiction, at the court's discretion, and shall in either  
222 case be considered a permanency option for the child. The order  
223 terminating supervision by the department shall set forth the  
224 powers of the custodian of the child and shall include the  
225 powers ordinarily granted to a guardian of the person of a minor  
226 unless otherwise specified. Upon the court's termination of  
227 supervision by the department, no further judicial reviews are  
228 required, so long as permanency has been established for the  
229 child.

230 Section 4. Subsections (1) through (7) of section 394.4655,  
231 Florida Statutes, are renumbered as subsections (2) through (8),  
232 respectively, paragraph (b) of present subsection (3), paragraph  
233 (b) of present subsection (6), and paragraphs (a) and (c) of  
234 present subsection (7) are amended, and a new subsection (1) is



576-04804-16

2016604c2

235 added to that section, to read:

236 394.4655 Involuntary outpatient placement.—

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

238 (a) "Court" means a circuit court or a criminal county  
239 court.

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

242 (4) ~~(3)~~ PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

243 (b) Each required criterion for involuntary outpatient  
244 placement must be alleged and substantiated in the petition for  
245 involuntary outpatient placement. A copy of the certificate  
246 recommending involuntary outpatient placement completed by a  
247 qualified professional specified in subsection (3) ~~(2)~~ must be  
248 attached to the petition. A copy of the proposed treatment plan  
249 must be attached to the petition. Before the petition is filed,  
250 the service provider shall certify that the services in the  
251 proposed treatment plan are available. If the necessary services  
252 are not available in the patient's local community to respond to  
253 the person's individual needs, the petition may not be filed.

254 (7) ~~(6)~~ HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

255 (b)1. If the court concludes that the patient meets the  
256 criteria for involuntary outpatient placement pursuant to  
257 subsection (2) ~~(1)~~, the court shall issue an order for  
258 involuntary outpatient placement. The court order shall be for a  
259 period of up to 6 months. The order must specify the nature and  
260 extent of the patient's mental illness. The order of the court  
261 and the treatment plan shall be made part of the patient's  
262 clinical record. The service provider shall discharge a patient  
263 from involuntary outpatient placement when the order expires or

576-04804-16

2016604c2

264 any time the patient no longer meets the criteria for  
265 involuntary placement. Upon discharge, the service provider  
266 shall send a certificate of discharge to the court.

267 2. The court may not order the department or the service  
268 provider to provide services if the program or service is not  
269 available in the patient's local community, if there is no space  
270 available in the program or service for the patient, or if  
271 funding is not available for the program or service. A copy of  
272 the order must be sent to the Agency for Health Care  
273 Administration by the service provider within 1 working day  
274 after it is received from the court. After the placement order  
275 is issued, the service provider and the patient may modify  
276 provisions of the treatment plan. For any material modification  
277 of the treatment plan to which the patient or the patient's  
278 guardian advocate, if appointed, does agree, the service  
279 provider shall send notice of the modification to the court. Any  
280 material modifications of the treatment plan which are contested  
281 by the patient or the patient's guardian advocate, if appointed,  
282 must be approved or disapproved by the court consistent with  
283 subsection (3) ~~(2)~~.

284 3. If, in the clinical judgment of a physician, the patient  
285 has failed or has refused to comply with the treatment ordered  
286 by the court, and, in the clinical judgment of the physician,  
287 efforts were made to solicit compliance and the patient may meet  
288 the criteria for involuntary examination, a person may be  
289 brought to a receiving facility pursuant to s. 394.463. If,  
290 after examination, the patient does not meet the criteria for  
291 involuntary inpatient placement pursuant to s. 394.467, the  
292 patient must be discharged from the receiving facility. The

576-04804-16

2016604c2

293 involuntary outpatient placement order shall remain in effect  
294 unless the service provider determines that the patient no  
295 longer meets the criteria for involuntary outpatient placement  
296 or until the order expires. The service provider must determine  
297 whether modifications should be made to the existing treatment  
298 plan and must attempt to continue to engage the patient in  
299 treatment. For any material modification of the treatment plan  
300 to which the patient or the patient's guardian advocate, if  
301 appointed, does agree, the service provider shall send notice of  
302 the modification to the court. Any material modifications of the  
303 treatment plan which are contested by the patient or the  
304 patient's guardian advocate, if appointed, must be approved or  
305 disapproved by the court consistent with subsection (3) ~~(2)~~.

306 (8) ~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT  
307 PLACEMENT.—

308 (a)1. If the person continues to meet the criteria for  
309 involuntary outpatient placement, the service provider shall,  
310 before the expiration of the period during which the treatment  
311 is ordered for the person, file in the ~~circuit~~ court that issued  
312 the order for involuntary outpatient treatment a petition for  
313 continued involuntary outpatient placement.

314 2. The existing involuntary outpatient placement order  
315 remains in effect until disposition on the petition for  
316 continued involuntary outpatient placement.

317 3. A certificate shall be attached to the petition which  
318 includes a statement from the person's physician or clinical  
319 psychologist justifying the request, a brief description of the  
320 patient's treatment during the time he or she was involuntarily  
321 placed, and an individualized plan of continued treatment.

576-04804-16

2016604c2

322 4. The service provider shall develop the individualized  
323 plan of continued treatment in consultation with the patient or  
324 the patient's guardian advocate, if appointed. When the petition  
325 has been filed, the clerk of the court shall provide copies of  
326 the certificate and the individualized plan of continued  
327 treatment to the department, the patient, the patient's guardian  
328 advocate, the state attorney, and the patient's private counsel  
329 or the public defender.

330 (c) Hearings on petitions for continued involuntary  
331 outpatient placement shall be before the ~~circuit~~ court that  
332 issued the order for involuntary outpatient treatment. The court  
333 may appoint a master to preside at the hearing. The procedures  
334 for obtaining an order pursuant to this paragraph shall be in  
335 accordance with subsection (7) ~~(6)~~, except that the time period  
336 included in paragraph (2) (e) ~~(1) (e)~~ is not applicable in  
337 determining the appropriateness of additional periods of  
338 involuntary outpatient placement.

339 Section 5. Paragraph (d) of subsection (2) of section  
340 394.4599, Florida Statutes, is amended to read:

341 394.4599 Notice.—

342 (2) INVOLUNTARY ADMISSION.—

343 (d) The written notice of the filing of the petition for  
344 involuntary placement of an individual being held must contain  
345 the following:

346 1. Notice that the petition for:

347 a. Involuntary inpatient treatment pursuant to s. 394.467

348 has been filed with the circuit court in the county in which the  
349 individual is hospitalized and the address of such court; or

350 b. Involuntary outpatient treatment pursuant to s. 394.4655

576-04804-16

2016604c2

351 has been filed with the criminal county court, as defined in s.  
352 394.4655(1), or the circuit court, as applicable, in the county  
353 in which the individual is hospitalized and the address of such  
354 court.

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

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

361 4. Notice that the individual, the individual's guardian,  
362 guardian advocate, health care surrogate or proxy, or  
363 representative, or the administrator may apply for a change of  
364 venue for the convenience of the parties or witnesses or because  
365 of the condition of the individual.

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

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

371 394.463 Involuntary examination.—

372 (2) INVOLUNTARY EXAMINATION.—

373 (g) A person for whom an involuntary examination has been  
374 initiated who is being evaluated or treated at a hospital for an  
375 emergency medical condition specified in s. 395.002 must be  
376 examined by a receiving facility within 72 hours. The 72-hour  
377 period begins when the patient arrives at the hospital and  
378 ceases when the attending physician documents that the patient  
379 has an emergency medical condition. If the patient is examined

576-04804-16

2016604c2

380 at a hospital providing emergency medical services by a  
381 professional qualified to perform an involuntary examination and  
382 is found as a result of that examination not to meet the  
383 criteria for involuntary outpatient placement pursuant to s.  
384 394.4655(2) ~~394.4655(1)~~ or involuntary inpatient placement  
385 pursuant to s. 394.467(1), the patient may be offered voluntary  
386 placement, if appropriate, or released directly from the  
387 hospital providing emergency medical services. The finding by  
388 the professional that the patient has been examined and does not  
389 meet the criteria for involuntary inpatient placement or  
390 involuntary outpatient placement must be entered into the  
391 patient's clinical record. Nothing in this paragraph is intended  
392 to prevent a hospital providing emergency medical services from  
393 appropriately transferring a patient to another hospital prior  
394 to stabilization, provided the requirements of s. 395.1041(3)(c)  
395 have been met.

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

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

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

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

576-04804-16

2016604c2

409 4. A petition for involuntary placement shall be filed in  
410 the circuit court if ~~when outpatient or inpatient~~ treatment is  
411 deemed necessary or with the criminal county court, as defined  
412 in s. 394.4655(1), as applicable. ~~If~~ ~~When~~ inpatient treatment is  
413 deemed necessary, the least restrictive treatment consistent  
414 with the optimum improvement of the patient's condition shall be  
415 made available. When a petition is to be filed for involuntary  
416 outpatient placement, it shall be filed by one of the  
417 petitioners specified in s. 394.4655(4)(a) ~~394.4655(3)(a)~~. A  
418 petition for involuntary inpatient placement shall be filed by  
419 the facility administrator.

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

422 394.455 Definitions.—As used in this part, unless the  
423 context clearly requires otherwise, the term:

424 (34) "Involuntary examination" means an examination  
425 performed under s. 394.463 to determine if an individual  
426 qualifies for involuntary inpatient treatment under s.  
427 394.467(1) or involuntary outpatient treatment under s.  
428 394.4655(2) ~~394.4655(1)~~.

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

431 394.4615 Clinical records; confidentiality.—

432 (3) Information from the clinical record may be released in  
433 the following circumstances:

434 (a) When a patient has declared an intention to harm other  
435 persons. When such declaration has been made, the administrator  
436 may authorize the release of sufficient information to provide  
437 adequate warning to the person threatened with harm by the

576-04804-16

2016604c2

438 patient.

439 (b) When the administrator of the facility or secretary of  
440 the department deems release to a qualified researcher as  
441 defined in administrative rule, an aftercare treatment provider,  
442 or an employee or agent of the department is necessary for  
443 treatment of the patient, maintenance of adequate records,  
444 compilation of treatment data, aftercare planning, or evaluation  
445 of programs.

446

447 For the purpose of determining whether a person meets the  
448 criteria for involuntary outpatient placement or for preparing  
449 the proposed treatment plan pursuant to s. 394.4655, the  
450 clinical record may be released to the state attorney, the  
451 public defender or the patient's private legal counsel, the  
452 court, and to the appropriate mental health professionals,  
453 including the service provider identified in s. 394.4655(7)(b)2.  
454 ~~394.4655(6)(b)2.~~, in accordance with state and federal law.

455 Section 9. Section 394.47891, Florida Statutes, is amended  
456 to read:

457 394.47891 Military veterans and servicemembers court  
458 programs.—The chief judge of each judicial circuit may establish  
459 a Military Veterans and Servicemembers Court Program under which  
460 veterans, as defined in s. 1.01, including veterans who were  
461 discharged or released under a general discharge, and  
462 servicemembers, as defined in s. 250.01, who are charged or  
463 convicted of a criminal offense and who suffer from a military-  
464 related mental illness, traumatic brain injury, substance abuse  
465 disorder, or psychological problem can be sentenced in  
466 accordance with chapter 921 in a manner that appropriately



576-04804-16

2016604c2

467 addresses the severity of the mental illness, traumatic brain  
468 injury, substance abuse disorder, or psychological problem  
469 through services tailored to the individual needs of the  
470 participant. Entry into any Military Veterans and Servicemembers  
471 Court Program must be based upon the sentencing court's  
472 assessment of the defendant's criminal history, military  
473 service, substance abuse treatment needs, mental health  
474 treatment needs, amenability to the services of the program, the  
475 recommendation of the state attorney and the victim, if any, and  
476 the defendant's agreement to enter the program.

477 Section 10. Section 394.47892, Florida Statutes, is created  
478 to read:

479 394.47892 Mental health court programs.—

480 (1) Each county may fund a mental health court program  
481 under which a defendant in the justice system assessed with a  
482 mental illness shall be processed in such a manner as to  
483 appropriately address the severity of the identified mental  
484 illness through treatment services tailored to the individual  
485 needs of the participant. The Legislature intends to encourage  
486 the department, the Department of Corrections, the Department of  
487 Juvenile Justice, the Department of Health, the Department of  
488 Law Enforcement, the Department of Education, and other such  
489 agencies, local governments, law enforcement agencies,  
490 interested public or private entities, and individuals to  
491 support the creation and establishment of problem-solving court  
492 programs. Participation in a mental health court program does  
493 not relieve a public or private agency of its responsibility for  
494 a child or an adult, but enables such agency to better meet the  
495 child's or adult's needs through shared responsibility and

576-04804-16

2016604c2

496 resources.

497 (2) Mental health court programs may include pretrial  
498 intervention programs as provided in ss. 948.08, 948.16, and  
499 985.345, postadjudicatory mental health court programs as  
500 provided in ss. 948.01 and 948.06, and review of the status of  
501 compliance or noncompliance of sentenced defendants through a  
502 mental health court program.

503 (3) Entry into a pretrial mental health court program is  
504 voluntary.

505 (4) (a) Entry into a postadjudicatory mental health court  
506 program as a condition of probation or community control  
507 pursuant to s. 948.01 or s. 948.06 must be based upon the  
508 sentencing court's assessment of the defendant's criminal  
509 history, mental health screening outcome, amenability to the  
510 services of the program, and total sentence points; the  
511 recommendation of the state attorney and the victim, if any; and  
512 the defendant's agreement to enter the program.

513 (b) A defendant who is sentenced to a postadjudicatory  
514 mental health court program and who, while a mental health court  
515 program participant, is the subject of a violation of probation  
516 or community control under s. 948.06 shall have the violation of  
517 probation or community control heard by the judge presiding over  
518 the postadjudicatory mental health court program. After a  
519 hearing on or admission of the violation, the judge shall  
520 dispose of any such violation as he or she deems appropriate if  
521 the resulting sentence or conditions are lawful.

522 (5) (a) Contingent upon an annual appropriation by the  
523 Legislature, the state courts system shall establish, at a  
524 minimum, one coordinator position in each mental health court

576-04804-16

2016604c2

525 program to coordinate the responsibilities of the participating  
526 agencies and service providers. Each coordinator shall provide  
527 direct support to the mental health court program by providing  
528 coordination between the multidisciplinary team and the  
529 judiciary, providing case management, monitoring compliance of  
530 the participants in the mental health court program with court  
531 requirements, and managing the collection of data for program  
532 evaluation and accountability.

533 (b) Each mental health court program shall collect  
534 sufficient client-level data and programmatic information for  
535 purposes of program evaluation. Client-level data includes  
536 primary offenses that resulted in the mental health court  
537 program referral or sentence, treatment compliance, completion  
538 status and reasons for failure to complete, offenses committed  
539 during treatment and the sanctions imposed, frequency of court  
540 appearances, and units of service. Programmatic information  
541 includes referral and screening procedures, eligibility  
542 criteria, type and duration of treatment offered, and  
543 residential treatment resources. The programmatic information  
544 and aggregate data on the number of mental health court program  
545 admissions and terminations by type of termination shall be  
546 reported annually by each mental health court program to the  
547 Office of the State Courts Administrator.

548 (6) If a county chooses to fund a mental health court  
549 program, the county must secure funding from sources other than  
550 the state for those costs not otherwise assumed by the state  
551 pursuant to s. 29.004. However, this subsection does not  
552 preclude counties from using funds for treatment and other  
553 services provided through state executive branch agencies.

576-04804-16

2016604c2

554 Counties may provide, by interlocal agreement, for the  
555 collective funding of these programs.

556 (7) The chief judge of each judicial circuit may appoint an  
557 advisory committee for the mental health court program. The  
558 committee shall be composed of the chief judge, or his or her  
559 designee, who shall serve as chair; the judge or judges of the  
560 mental health court program, if not otherwise designated by the  
561 chief judge as his or her designee; the state attorney, or his  
562 or her designee; the public defender, or his or her designee;  
563 the mental health court program coordinator or coordinators;  
564 community representatives; treatment representatives; and any  
565 other persons who the chair deems appropriate.

566 Section 11. Paragraph (a) of subsection (2) of section  
567 790.065, Florida Statutes, is amended to read:

568 790.065 Sale and delivery of firearms.-

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

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

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

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

578 3. Has had adjudication of guilt withheld or imposition of  
579 sentence suspended on any felony or misdemeanor crime of  
580 domestic violence unless 3 years have elapsed since probation or  
581 any other conditions set by the court have been fulfilled or  
582 expunction has occurred; or

576-04804-16

2016604c2

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

587 a. As used in this subparagraph, "adjudicated mentally  
588 defective" means a determination by a court that a person, as a  
589 result of marked subnormal intelligence, or mental illness,  
590 incompetency, condition, or disease, is a danger to himself or  
591 herself or to others or lacks the mental capacity to contract or  
592 manage his or her own affairs. The phrase includes a judicial  
593 finding of incapacity under s. 744.331(6)(a), an acquittal by  
594 reason of insanity of a person charged with a criminal offense,  
595 and a judicial finding that a criminal defendant is not  
596 competent to stand trial.

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

599 (I) Involuntary commitment, commitment for mental  
600 defectiveness or mental illness, and commitment for substance  
601 abuse. The phrase includes involuntary inpatient placement as  
602 defined in s. 394.467, involuntary outpatient placement as  
603 defined in s. 394.4655, involuntary assessment and stabilization  
604 under s. 397.6818, and involuntary substance abuse treatment  
605 under s. 397.6957, but does not include a person in a mental  
606 institution for observation or discharged from a mental  
607 institution based upon the initial review by the physician or a  
608 voluntary admission to a mental institution; or

609 (II) Notwithstanding sub-sub-subparagraph (I), voluntary  
610 admission to a mental institution for outpatient or inpatient  
611 treatment of a person who had an involuntary examination under

576-04804-16

2016604c2

612 s. 394.463, where each of the following conditions have been  
613 met:

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

616 (B) The examining physician certified that if the person  
617 did not agree to voluntary treatment, a petition for involuntary  
618 outpatient or inpatient treatment would have been filed under s.  
619 394.463(2)(i)4., or the examining physician certified that a  
620 petition was filed and the person subsequently agreed to  
621 voluntary treatment prior to a court hearing on the petition.

622 (C) Before agreeing to voluntary treatment, the person  
623 received written notice of that finding and certification, and  
624 written notice that as a result of such finding, he or she may  
625 be prohibited from purchasing a firearm, and may not be eligible  
626 to apply for or retain a concealed weapon or firearms license  
627 under s. 790.06 and the person acknowledged such notice in  
628 writing, in substantially the following form:

629  
630 "I understand that the doctor who examined me believes I am a  
631 danger to myself or to others. I understand that if I do not  
632 agree to voluntary treatment, a petition will be filed in court  
633 to require me to receive involuntary treatment. I understand  
634 that if that petition is filed, I have the right to contest it.  
635 In the event a petition has been filed, I understand that I can  
636 subsequently agree to voluntary treatment prior to a court  
637 hearing. I understand that by agreeing to voluntary treatment in  
638 either of these situations, I may be prohibited from buying  
639 firearms and from applying for or retaining a concealed weapons  
640 or firearms license until I apply for and receive relief from

576-04804-16

2016604c2

641 that restriction under Florida law.”

642

643 (D) A judge or a magistrate has, pursuant to sub-sub-  
644 subparagraph c.(II), reviewed the record of the finding,  
645 certification, notice, and written acknowledgment classifying  
646 the person as an imminent danger to himself or herself or  
647 others, and ordered that such record be submitted to the  
648 department.

649 c. In order to check for these conditions, the department  
650 shall compile and maintain an automated database of persons who  
651 are prohibited from purchasing a firearm based on court records  
652 of adjudications of mental defectiveness or commitments to  
653 mental institutions.

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

660 (II) For persons committed to a mental institution pursuant  
661 to sub-sub-subparagraph b.(II), within 24 hours after the  
662 person's agreement to voluntary admission, a record of the  
663 finding, certification, notice, and written acknowledgment must  
664 be filed by the administrator of the receiving or treatment  
665 facility, as defined in s. 394.455, with the clerk of the court  
666 for the county in which the involuntary examination under s.  
667 394.463 occurred. No fee shall be charged for the filing under  
668 this sub-sub-subparagraph. The clerk must present the records to  
669 a judge or magistrate within 24 hours after receipt of the

576-04804-16

2016604c2

670 records. A judge or magistrate is required and has the lawful  
671 authority to review the records ex parte and, if the judge or  
672 magistrate determines that the record supports the classifying  
673 of the person as an imminent danger to himself or herself or  
674 others, to order that the record be submitted to the department.  
675 If a judge or magistrate orders the submittal of the record to  
676 the department, the record must be submitted to the department  
677 within 24 hours.

678 d. A person who has been adjudicated mentally defective or  
679 committed to a mental institution, as those terms are defined in  
680 this paragraph, may petition the ~~circuit~~ court that made the  
681 adjudication or commitment, or the court that ordered that the  
682 record be submitted to the department pursuant to sub-sub-  
683 subparagraph c.(II), for relief from the firearm disabilities  
684 imposed by such adjudication or commitment. A copy of the  
685 petition shall be served on the state attorney for the county in  
686 which the person was adjudicated or committed. The state  
687 attorney may object to and present evidence relevant to the  
688 relief sought by the petition. The hearing on the petition may  
689 be open or closed as the petitioner may choose. The petitioner  
690 may present evidence and subpoena witnesses to appear at the  
691 hearing on the petition. The petitioner may confront and cross-  
692 examine witnesses called by the state attorney. A record of the  
693 hearing shall be made by a certified court reporter or by court-  
694 approved electronic means. The court shall make written findings  
695 of fact and conclusions of law on the issues before it and issue  
696 a final order. The court shall grant the relief requested in the  
697 petition if the court finds, based on the evidence presented  
698 with respect to the petitioner's reputation, the petitioner's



576-04804-16

2016604c2

699 mental health record and, if applicable, criminal history  
700 record, the circumstances surrounding the firearm disability,  
701 and any other evidence in the record, that the petitioner will  
702 not be likely to act in a manner that is dangerous to public  
703 safety and that granting the relief would not be contrary to the  
704 public interest. If the final order denies relief, the  
705 petitioner may not petition again for relief from firearm  
706 disabilities until 1 year after the date of the final order. The  
707 petitioner may seek judicial review of a final order denying  
708 relief in the district court of appeal having jurisdiction over  
709 the court that issued the order. The review shall be conducted  
710 de novo. Relief from a firearm disability granted under this  
711 sub-subparagraph has no effect on the loss of civil rights,  
712 including firearm rights, for any reason other than the  
713 particular adjudication of mental defectiveness or commitment to  
714 a mental institution from which relief is granted.

715 e. Upon receipt of proper notice of relief from firearm  
716 disabilities granted under sub-subparagraph d., the department  
717 shall delete any mental health record of the person granted  
718 relief from the automated database of persons who are prohibited  
719 from purchasing a firearm based on court records of  
720 adjudications of mental defectiveness or commitments to mental  
721 institutions.

722 f. The department is authorized to disclose data collected  
723 pursuant to this subparagraph to agencies of the Federal  
724 Government and other states for use exclusively in determining  
725 the lawfulness of a firearm sale or transfer. The department is  
726 also authorized to disclose this data to the Department of  
727 Agriculture and Consumer Services for purposes of determining

576-04804-16

2016604c2

728 eligibility for issuance of a concealed weapons or concealed  
729 firearms license and for determining whether a basis exists for  
730 revoking or suspending a previously issued license pursuant to  
731 s. 790.06(10). When a potential buyer or transferee appeals a  
732 nonapproval based on these records, the clerks of court and  
733 mental institutions shall, upon request by the department,  
734 provide information to help determine whether the potential  
735 buyer or transferee is the same person as the subject of the  
736 record. Photographs and any other data that could confirm or  
737 negate identity must be made available to the department for  
738 such purposes, notwithstanding any other provision of state law  
739 to the contrary. Any such information that is made confidential  
740 or exempt from disclosure by law shall retain such confidential  
741 or exempt status when transferred to the department.

742 Section 12. Paragraph (a) of subsection (5) of section  
743 910.035, Florida Statutes, is amended to read:

744 910.035 Transfer from county for plea, sentence, or  
745 participation in a problem-solving court.—

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

747 (a) For purposes of this subsection, the term "problem-  
748 solving court" means a drug court pursuant to s. 948.01, s.  
749 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans'  
750 and servicemembers' court pursuant to s. 394.47891, s. 948.08,  
751 s. 948.16, or s. 948.21; ~~or~~ a mental health court program  
752 pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s.  
753 948.16; or a delinquency pretrial intervention court program  
754 pursuant to s. 985.345.

755 Section 13. Section 916.185, Florida Statutes, is created  
756 to read:

576-04804-16

2016604c2

757       916.185 Forensic Hospital Diversion Pilot Program.—  
758       (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
759 that many jail inmates who have serious mental illnesses and who  
760 are committed to state forensic mental health treatment  
761 facilities for restoration of competency to proceed could be  
762 served more effectively and at less cost in community-based  
763 alternative programs. The Legislature further finds that many  
764 people who have serious mental illnesses and who have been  
765 discharged from state forensic mental health treatment  
766 facilities could avoid returning to the criminal justice and  
767 forensic mental health systems if they received specialized  
768 treatment in the community. Therefore, it is the intent of the  
769 Legislature to create the Forensic Hospital Diversion Pilot  
770 Program to serve offenders who have mental illnesses or co-  
771 occurring mental illnesses and substance use disorders and who  
772 are involved in or at risk of entering state forensic mental  
773 health treatment facilities, prisons, jails, or state civil  
774 mental health treatment facilities.

775       (2) DEFINITIONS.—As used in this section, the term:  
776       (a) "Best practices" means treatment services that  
777 incorporate the most effective and acceptable interventions  
778 available in the care and treatment of offenders who are  
779 diagnosed as having mental illnesses or co-occurring mental  
780 illnesses and substance use disorders.

781       (b) "Community forensic system" means the community mental  
782 health and substance use forensic treatment system, including  
783 the comprehensive set of services and supports provided to  
784 offenders involved in or at risk of becoming involved in the  
785 criminal justice system.

576-04804-16

2016604c2

786 (c) "Evidence-based practices" means interventions and  
787 strategies that, based on the best available empirical research,  
788 demonstrate effective and efficient outcomes in the care and  
789 treatment of offenders who are diagnosed as having mental  
790 illnesses or co-occurring mental illnesses and substance use  
791 disorders.

792 (3) CREATION.—There is authorized a Forensic Hospital  
793 Diversion Pilot Program to provide competency-restoration and  
794 community-reintegration services in either a locked residential  
795 treatment facility when appropriate or a community-based  
796 facility based on considerations of public safety, the needs of  
797 the individual, and available resources.

798 (a) The department may implement a Forensic Hospital  
799 Diversion Pilot Program modeled after the Miami-Dade Forensic  
800 Alternative Center, taking into account local needs and  
801 resources in Duval County, in conjunction with the Fourth  
802 Judicial Circuit in Duval County; in Broward County, in  
803 conjunction with the Seventeenth Judicial Circuit in Broward  
804 County; in Miami-Dade County, in conjunction with the Eleventh  
805 Judicial Circuit in Miami-Dade County; and in Okaloosa County,  
806 in conjunction with the First Judicial Circuit in Okaloosa  
807 County.

808 (b) If the department elects to create and implement the  
809 program, the department shall include a comprehensive continuum  
810 of care and services that use evidence-based practices and best  
811 practices to treat offenders who have mental health and co-  
812 occurring substance use disorders.

813 (c) The department and the corresponding judicial circuits  
814 may implement this section if existing resources are available

576-04804-16

2016604c2

815 to do so on a recurring basis. The department may request budget  
816 amendments pursuant to chapter 216 to realign funds between  
817 mental health services and community substance abuse and mental  
818 health services in order to implement this pilot program.

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

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

822 (b) Are charged with a felony of the second degree or a  
823 felony of the third degree.

824 (c) Do not have a significant history of violent criminal  
825 offenses.

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

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

830 (f) Otherwise would be admitted to a state mental health  
831 treatment facility.

832 (5) TRAINING.—The Legislature encourages the Florida  
833 Supreme Court, in consultation and cooperation with the Florida  
834 Supreme Court Task Force on Substance Abuse and Mental Health  
835 Issues in the Courts, to develop educational training for judges  
836 in the pilot program areas which focuses on the community  
837 forensic system.

838 (6) RULEMAKING.—The department may adopt rules to  
839 administer this section.

840 Section 14. Subsections (6) through (13) of section  
841 948.001, Florida Statutes, are renumbered as subsections (7)  
842 through (14), respectively, and a new subsection (6) is added to  
843 that section, to read:

576-04804-16

2016604c2

844 948.001 Definitions.—As used in this chapter, the term:  
845 (6) "Mental health probation" means a form of specialized  
846 supervision that emphasizes mental health treatment and working  
847 with treatment providers to focus on underlying mental health  
848 disorders and compliance with a prescribed psychotropic  
849 medication regimen in accordance with individualized treatment  
850 plans. Mental health probation shall be supervised by officers  
851 with restricted caseloads who are sensitive to the unique needs  
852 of individuals with mental health disorders, and who will work  
853 in tandem with community mental health case managers assigned to  
854 the defendant. Caseloads of such officers should be restricted  
855 to a maximum of 50 cases per officer in order to ensure an  
856 adequate level of staffing and supervision.

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

859 948.01 When court may place defendant on probation or into  
860 community control.—

861 (8) (a) Notwithstanding s. 921.0024 and effective for  
862 offenses committed on or after July 1, 2016, the sentencing  
863 court may place the defendant into a postadjudicatory mental  
864 health court program if the offense is a nonviolent felony, the  
865 defendant is amenable to mental health treatment, including  
866 taking prescribed medications, and the defendant is otherwise  
867 qualified under s. 394.47892(4). The satisfactory completion of  
868 the program must be a condition of the defendant's probation or  
869 community control. As used in this subsection, the term  
870 "nonviolent felony" means a third degree felony violation under  
871 chapter 810 or any other felony offense that is not a forcible  
872 felony as defined in s. 776.08. Defendants charged with

576-04804-16

2016604c2

873 resisting an officer with violence under s. 843.01, battery on a  
874 law enforcement officer under s. 784.07, or aggravated assault  
875 may participate in the mental health court program if the court  
876 so orders after the victim is given his or her right to provide  
877 testimony or written statement to the court as provided in s.  
878 921.143.

879 (b) The defendant must be fully advised of the purpose of  
880 the mental health court program and the defendant must agree to  
881 enter the program. The original sentencing court shall  
882 relinquish jurisdiction of the defendant's case to the  
883 postadjudicatory mental health court program until the defendant  
884 is no longer active in the program, the case is returned to the  
885 sentencing court due to the defendant's termination from the  
886 program for failure to comply with the terms thereof, or the  
887 defendant's sentence is completed.

888 (c) The Department of Corrections may establish designated  
889 and trained mental health probation officers to support  
890 individuals under supervision of the mental health court  
891 program.

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

894 948.06 Violation of probation or community control;  
895 revocation; modification; continuance; failure to pay  
896 restitution or cost of supervision.-

897 (2)

898 (j)1. Notwithstanding s. 921.0024 and effective for  
899 offenses committed on or after July 1, 2016, the court may order  
900 the offender to successfully complete a postadjudicatory mental  
901 health court program under s. 394.47892 or a military veterans

576-04804-16

2016604c2

902 and servicemembers court program under s. 394.47891 if:

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

905 b. The underlying offense is a nonviolent felony. As used  
906 in this subsection, the term "nonviolent felony" means a third  
907 degree felony violation under chapter 810 or any other felony  
908 offense that is not a forcible felony as defined in s. 776.08.  
909 Offenders charged with resisting an officer with violence under  
910 s. 843.01, battery on a law enforcement officer under s. 784.07,  
911 or aggravated assault may participate in the mental health court  
912 program if the court so orders after the victim is given his or  
913 her right to provide testimony or written statement to the court  
914 as provided in s. 921.143;

915 c. The court determines that the offender is amenable to  
916 the services of a postadjudicatory mental health court program,  
917 including taking prescribed medications, or a military veterans  
918 and servicemembers court program;

919 d. The court explains the purpose of the program to the  
920 offender and the offender agrees to participate; and

921 e. The offender is otherwise qualified to participate in a  
922 postadjudicatory mental health court program under s.  
923 394.47892(4) or a military veterans and servicemembers court  
924 program under s. 394.47891.

925 2. After the court orders the modification of community  
926 control or probation, the original sentencing court shall  
927 relinquish jurisdiction of the offender's case to the  
928 postadjudicatory mental health court program until the offender  
929 is no longer active in the program, the case is returned to the  
930 sentencing court due to the offender's termination from the



576-04804-16

2016604c2

931 program for failure to comply with the terms thereof, or the  
932 offender's sentence is completed.

933 Section 17. Subsection (8) of section 948.08, Florida  
934 Statutes, is renumbered as subsection (9), paragraph (a) of  
935 subsection (7) is amended, and a new subsection (8) is added to  
936 that section, to read:

937 948.08 Pretrial intervention program.—

938 (7) (a) Notwithstanding any provision of this section, a  
939 person who is charged with a felony, other than a felony listed  
940 in s. 948.06(8)(c), and identified as a veteran, as defined in  
941 s. 1.01, including a veteran who is discharged or released under  
942 a general discharge, or servicemember, as defined in s. 250.01,  
943 who suffers from a military service-related mental illness,  
944 traumatic brain injury, substance abuse disorder, or  
945 psychological problem, is eligible for voluntary admission into  
946 a pretrial veterans' treatment intervention program approved by  
947 the chief judge of the circuit, upon motion of either party or  
948 the court's own motion, except:

949 1. If a defendant was previously offered admission to a  
950 pretrial veterans' treatment intervention program at any time  
951 before trial and the defendant rejected that offer on the  
952 record, the court may deny the defendant's admission to such a  
953 program.

954 2. If a defendant previously entered a court-ordered  
955 veterans' treatment program, the court may deny the defendant's  
956 admission into the pretrial veterans' treatment program.

957 (8) (a) Notwithstanding any provision of this section, a  
958 defendant is eligible for voluntary admission into a pretrial  
959 mental health court program established pursuant to s. 394.47892

576-04804-16

2016604c2

960 and approved by the chief judge of the circuit for a period to  
961 be determined by the court, based on the clinical needs of the  
962 defendant, upon motion of either party or the court's own motion  
963 if:

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

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

966 3. The defendant is charged with:

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

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

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

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

978 (b) At the end of the pretrial intervention period, the  
979 court shall consider the recommendation of the program  
980 administrator and the recommendation of the state attorney as to  
981 disposition of the pending charges. The court shall determine,  
982 by written finding, whether the defendant has successfully  
983 completed the pretrial intervention program. If the court finds  
984 that the defendant has not successfully completed the pretrial  
985 intervention program, the court may order the person to continue  
986 in education and treatment, which may include a mental health  
987 program offered by a licensed service provider, as defined in s.  
988 394.455, or order that the charges revert to normal channels for

576-04804-16

2016604c2

989 prosecution. The court shall dismiss the charges upon a finding  
990 that the defendant has successfully completed the pretrial  
991 intervention program.

992 Section 18. Subsections (3) and (4) of section 948.16,  
993 Florida Statutes, are renumbered as subsections (4) and (5),  
994 respectively, paragraph (a) of subsection (2) and present  
995 subsection (4) of that section are amended, and a new subsection  
996 (3) is added to that section, to read:

997 948.16 Misdemeanor pretrial substance abuse education and  
998 treatment intervention program; misdemeanor pretrial veterans'  
999 treatment intervention program; misdemeanor pretrial mental  
1000 health court program.—

1001 (2) (a) A veteran, as defined in s. 1.01, including a  
1002 veteran who is discharged or released under a general discharge,  
1003 or servicemember, as defined in s. 250.01, who suffers from a  
1004 military service-related mental illness, traumatic brain injury,  
1005 substance abuse disorder, or psychological problem, and who is  
1006 charged with a misdemeanor is eligible for voluntary admission  
1007 into a misdemeanor pretrial veterans' treatment intervention  
1008 program approved by the chief judge of the circuit, for a period  
1009 based on the program's requirements and the treatment plan for  
1010 the offender, upon motion of either party or the court's own  
1011 motion. However, the court may deny the defendant admission into  
1012 a misdemeanor pretrial veterans' treatment intervention program  
1013 if the defendant has previously entered a court-ordered  
1014 veterans' treatment program.

1015 (3) A defendant who is charged with a misdemeanor and  
1016 identified as having a mental illness is eligible for voluntary  
1017 admission into a misdemeanor pretrial mental health court

576-04804-16

2016604c2

1018 program established pursuant to s. 394.47892, approved by the  
1019 chief judge of the circuit, for a period to be determined by the  
1020 court, based on the clinical needs of the defendant, upon motion  
1021 of either party or the court's own motion.

1022 (5)~~(4)~~ Any public or private entity providing a pretrial  
1023 substance abuse education and treatment program or mental health  
1024 court program under this section shall contract with the county  
1025 or appropriate governmental entity. The terms of the contract  
1026 shall include, but not be limited to, the requirements  
1027 established for private entities under s. 948.15(3). This  
1028 requirement does not apply to services provided by the  
1029 Department of Veterans' Affairs or the United States Department  
1030 of Veterans Affairs.

1031 Section 19. Section 948.21, Florida Statutes, is amended to  
1032 read:

1033 948.21 Condition of probation or community control;  
1034 military servicemembers and veterans.-

1035 (1) Effective for a probationer or community controllee  
1036 whose crime is ~~was~~ committed on or after July 1, 2012, and who  
1037 is a veteran, as defined in s. 1.01, or servicemember, as  
1038 defined in s. 250.01, who suffers from a military service-  
1039 related mental illness, traumatic brain injury, substance abuse  
1040 disorder, or psychological problem, the court may, in addition  
1041 to any other conditions imposed, impose a condition requiring  
1042 the probationer or community controllee to participate in a  
1043 treatment program capable of treating the probationer's  
1044 ~~probationer~~ or community controllee's mental illness, traumatic  
1045 brain injury, substance abuse disorder, or psychological  
1046 problem.

576-04804-16

2016604c2

1047       (2) Effective for a probationer or community controllee  
1048 whose crime is committed on or after July 1, 2016, and who is a  
1049 veteran, as defined in s. 1.01, including a veteran who is  
1050 discharged or released under a general discharge, or  
1051 servicemember, as defined in s. 250.01, who suffers from a  
1052 military service-related mental illness, traumatic brain injury,  
1053 substance abuse disorder, or psychological problem, the court  
1054 may, in addition to any other conditions imposed, impose a  
1055 condition requiring the probationer or community controllee to  
1056 participate in a treatment program capable of treating the  
1057 probationer or community controllee's mental illness, traumatic  
1058 brain injury, substance abuse disorder, or psychological  
1059 problem.

1060       (3) The court shall give preference to treatment programs  
1061 for which the probationer or community controllee is eligible  
1062 through the United States Department of Veterans Affairs or the  
1063 Florida Department of Veterans' Affairs. The Department of  
1064 Corrections is not required to spend state funds to implement  
1065 this section.

1066       Section 20. Section 985.345, Florida Statutes, is amended  
1067 to read:

1068       985.345 Delinquency pretrial intervention programs  
1069 ~~program.~~—

1070       (1) (a) Notwithstanding any other ~~provision of law to the~~  
1071 ~~contrary~~, a child who is charged with a felony of the second or  
1072 third degree for purchase or possession of a controlled  
1073 substance under chapter 893; tampering with evidence;  
1074 solicitation for purchase of a controlled substance; or  
1075 obtaining a prescription by fraud, and who has not previously

576-04804-16

2016604c2

1076 been adjudicated for a felony, is eligible for voluntary  
1077 admission into a delinquency pretrial substance abuse education  
1078 and treatment intervention program, including a treatment-based  
1079 drug court program established pursuant to s. 397.334, approved  
1080 by the chief judge or alternative sanctions coordinator of the  
1081 circuit to the extent that funded programs are available, for a  
1082 period based on the program requirements and the treatment  
1083 services that are suitable for the offender, upon motion of  
1084 either party or the court's own motion. However, if the state  
1085 attorney believes that the facts and circumstances of the case  
1086 suggest the child's involvement in the dealing and selling of  
1087 controlled substances, the court shall hold a preadmission  
1088 hearing. If the state attorney establishes by a preponderance of  
1089 the evidence at such hearing that the child was involved in the  
1090 dealing and selling of controlled substances, the court shall  
1091 deny the child's admission into a delinquency pretrial  
1092 intervention program.

1093 (b)(2) While enrolled in a delinquency pretrial  
1094 intervention program authorized by this subsection ~~section~~, a  
1095 child is subject to a coordinated strategy developed by a drug  
1096 court team under s. 397.334(4). The coordinated strategy may  
1097 include a protocol of sanctions that may be imposed upon the  
1098 child for noncompliance with program rules. The protocol of  
1099 sanctions may include, but is not limited to, placement in a  
1100 substance abuse treatment program offered by a licensed service  
1101 provider as defined in s. 397.311 or serving a period of secure  
1102 detention under this chapter. The coordinated strategy must be  
1103 provided in writing to the child before the child agrees to  
1104 enter the pretrial treatment-based drug court program or other

576-04804-16

2016604c2

1105 pretrial intervention program. ~~A~~ Any child whose charges are  
1106 dismissed after successful completion of the treatment-based  
1107 drug court program, if otherwise eligible, may have his or her  
1108 arrest record and plea of nolo contendere to the dismissed  
1109 charges expunged under s. 943.0585.

1110 ~~(c)(3)~~ At the end of the delinquency pretrial intervention  
1111 period, the court shall consider the recommendation of the state  
1112 attorney and the program administrator as to disposition of the  
1113 pending charges. The court shall determine, by written finding,  
1114 whether the child has successfully completed the delinquency  
1115 pretrial intervention program. Notwithstanding the coordinated  
1116 strategy developed by a drug court team pursuant to s.  
1117 397.334(4), if the court finds that the child has not  
1118 successfully completed the delinquency pretrial intervention  
1119 program, the court may order the child to continue in an  
1120 education, treatment, or drug testing ~~urine monitoring~~ program  
1121 if resources and funding are available or order that the charges  
1122 revert to normal channels for prosecution. The court may dismiss  
1123 the charges upon a finding that the child has successfully  
1124 completed the delinquency pretrial intervention program.

1125 (2)(a) Notwithstanding any other law, a child who has been  
1126 identified as having a mental illness and who has not been  
1127 previously adjudicated for a felony is eligible for voluntary  
1128 admission into a delinquency pretrial mental health court  
1129 intervention program, established pursuant to s. 394.47892,  
1130 approved by the chief judge of the circuit, for a period to be  
1131 determined by the court, based on the clinical needs of the  
1132 child, upon motion of either party or the court's own motion if  
1133 the child is charged with:

576-04804-16

2016604c2

1134 1. A misdemeanor;

1135 2. A nonviolent felony, as defined in s. 948.01(8);

1136 3. Resisting an officer with violence under s. 843.01, if  
1137 the law enforcement officer and state attorney consent to the  
1138 child's participation;

1139 4. Battery on a law enforcement officer under 784.07, if  
1140 the law enforcement officer and state attorney consent to the  
1141 child's participation; or

1142 5. Aggravated assault, if the victim and state attorney  
1143 consent to the child's participation.

1144 (b) At the end of the delinquency pretrial mental health  
1145 court intervention period, the court shall consider the  
1146 recommendation of the state attorney and the program  
1147 administrator as to disposition of the pending charges. The  
1148 court shall determine, by written finding, whether the child has  
1149 successfully completed the program. If the court finds that the  
1150 child has not successfully completed the program, the court may  
1151 order the child to continue in an education, treatment, or  
1152 monitoring program if resources and funding are available or  
1153 order that the charges revert to normal channels for  
1154 prosecution. The court may dismiss the charges upon a finding  
1155 that the child has successfully completed the program.

1156 (c) A child whose charges are dismissed after successful  
1157 completion of the delinquency pretrial mental health court  
1158 intervention program, if otherwise eligible, may have his or her  
1159 criminal history record for such charges expunged under s.  
1160 943.0585.

1161 (3)~~(4)~~ Any entity, whether public or private, providing  
1162 pretrial substance abuse education, treatment intervention, drug



576-04804-16

2016604c2

1163 testing, or a mental health court ~~and a urine monitoring~~ program  
1164 under this section must contract with the county or appropriate  
1165 governmental entity, and the terms of the contract must include,  
1166 but need not be limited to, the requirements established for  
1167 private entities under s. 948.15(3). It is the intent of the  
1168 Legislature that public or private entities providing substance  
1169 abuse education and treatment intervention programs involve the  
1170 active participation of parents, schools, churches, businesses,  
1171 law enforcement agencies, and the department or its contract  
1172 providers.

1173 Section 21. For the purpose of incorporating the amendments  
1174 made by this act to sections 948.01 and 948.06, Florida  
1175 Statutes, in references thereto, paragraph (a) of subsection (3)  
1176 and subsection (5) of section 397.334, Florida Statutes, are  
1177 reenacted to read:

1178 397.334 Treatment-based drug court programs.—

1179 (3) (a) Entry into any postadjudicatory treatment-based drug  
1180 court program as a condition of probation or community control  
1181 pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based  
1182 upon the sentencing court's assessment of the defendant's  
1183 criminal history, substance abuse screening outcome, amenability  
1184 to the services of the program, total sentence points, the  
1185 recommendation of the state attorney and the victim, if any, and  
1186 the defendant's agreement to enter the program.

1187 (5) Treatment-based drug court programs may include  
1188 pretrial intervention programs as provided in ss. 948.08,  
1189 948.16, and 985.345, treatment-based drug court programs  
1190 authorized in chapter 39, postadjudicatory programs as provided  
1191 in ss. 948.01, 948.06, and 948.20, and review of the status of

576-04804-16

2016604c2

1192 compliance or noncompliance of sentenced offenders through a  
1193 treatment-based drug court program. While enrolled in a  
1194 treatment-based drug court program, the participant is subject  
1195 to a coordinated strategy developed by a drug court team under  
1196 subsection (4). The coordinated strategy may include a protocol  
1197 of sanctions that may be imposed upon the participant for  
1198 noncompliance with program rules. The protocol of sanctions may  
1199 include, but is not limited to, placement in a substance abuse  
1200 treatment program offered by a licensed service provider as  
1201 defined in s. 397.311 or in a jail-based treatment program or  
1202 serving a period of secure detention under chapter 985 if a  
1203 child or a period of incarceration within the time limits  
1204 established for contempt of court if an adult. The coordinated  
1205 strategy must be provided in writing to the participant before  
1206 the participant agrees to enter into a treatment-based drug  
1207 court program.

1208 Section 22. For the purpose of incorporating the amendment  
1209 made by this act to section 948.06, Florida Statutes, in a  
1210 reference thereto, paragraph (b) of subsection (2) of section  
1211 948.012, Florida Statutes, is reenacted to read:

1212 948.012 Split sentence of probation or community control  
1213 and imprisonment.—

1214 (2) The court may also impose a split sentence whereby the  
1215 defendant is sentenced to a term of probation which may be  
1216 followed by a period of incarceration or, with respect to a  
1217 felony, into community control, as follows:

1218 (b) If the offender does not meet the terms and conditions  
1219 of probation or community control, the court may revoke, modify,  
1220 or continue the probation or community control as provided in s.

576-04804-16

2016604c2

1221 948.06. If the probation or community control is revoked, the  
1222 court may impose any sentence that it could have imposed at the  
1223 time the offender was placed on probation or community control.  
1224 The court may not provide credit for time served for any portion  
1225 of a probation or community control term toward a subsequent  
1226 term of probation or community control. However, the court may  
1227 not impose a subsequent term of probation or community control  
1228 which, when combined with any amount of time served on preceding  
1229 terms of probation or community control for offenses pending  
1230 before the court for sentencing, would exceed the maximum  
1231 penalty allowable as provided in s. 775.082. Such term of  
1232 incarceration shall be served under applicable law or county  
1233 ordinance governing service of sentences in state or county  
1234 jurisdiction. This paragraph does not prohibit any other  
1235 sanction provided by law.

1236 Section 23. This act shall take effect July 1, 2016.