

1 A bill to be entitled
2 An act relating to certain defendants with mental
3 illness; amending s. 394.658, F.S.; exempting certain
4 fiscally constrained counties from local match
5 requirements for specified grants; creating s.
6 916.1095, F.S.; creating the Law Enforcement
7 Behavioral Health Intervention Unit Pilot Program in
8 certain counties for a specified purpose and number of
9 years; requiring the sheriffs' offices in such
10 counties to establish behavioral health intervention
11 units; requiring the sheriffs to assign deputies to
12 the units; providing training requirements; requiring
13 the units to consult with specified professionals for
14 certain services; providing duties of the units;
15 requiring annual reports; providing reporting
16 requirements; providing an expiration date; creating
17 s. 916.135, F.S.; creating the Misdemeanor Mental
18 Health Diversion Pilot Program by a specified date in
19 certain counties for a specified purpose and number of
20 years; providing applicability; providing definitions;
21 outlining a process for the pilot program; requiring
22 the speedy trial period to be immediately tolled when
23 a defendant is involuntarily committed; requiring the
24 court to order a defendant to comply with certain
25 mental health conditions of pretrial release;

26 requiring the state attorney to consider dismissal of
 27 charges upon a defendant's successful completion of
 28 mental health treatment; requiring the court to
 29 consider specified information before a defendant is
 30 returned to jail; requiring annual reports; providing
 31 reporting requirements; providing an expiration date;
 32 providing an effective date.

33
 34 Be It Enacted by the Legislature of the State of Florida:

35
 36 Section 1. Subsection (2) of section 394.658, Florida
 37 Statutes, is amended to read:

38 394.658 Criminal Justice, Mental Health, and Substance
 39 Abuse Reinvestment Grant Program requirements.—

40 (2) (a) As used in this subsection, the term "available
 41 resources" includes in-kind contributions from participating
 42 counties.

43 (b) A 1-year planning grant may not be awarded unless the
 44 applicant county makes available resources in an amount equal to
 45 the total amount of the grant. A planning grant may not be used
 46 to supplant funding for existing programs. For fiscally
 47 constrained counties, the available resources may be at 50
 48 percent of the total amount of the grant, except that fiscally
 49 constrained counties that are awarded grants to establish a law
 50 enforcement behavioral health intervention unit under s.

51 | 916.1095 or to establish programs to divert misdemeanor
 52 | defendants with mental health disorders from jails to community-
 53 | based treatment under s. 916.135 may not be required to provide
 54 | local matching funds.

55 | (c) A 3-year implementation or expansion grant may not be
 56 | awarded unless the applicant county or consortium of counties
 57 | makes available resources equal to the total amount of the
 58 | grant. For fiscally constrained counties, the available
 59 | resources may be at 50 percent of the total amount of the grant,
 60 | except that fiscally constrained counties that are awarded
 61 | grants to establish a law enforcement behavioral health
 62 | intervention unit under s. 916.1095 or to establish programs to
 63 | divert misdemeanor defendants with mental health disorders from
 64 | jails to community-based treatment under s. 916.135 may not be
 65 | required to provide local matching funds. This match shall be
 66 | used for expansion of services and may not supplant existing
 67 | funds for services. An implementation or expansion grant must
 68 | support the implementation of new services or the expansion of
 69 | services and may not be used to supplant existing services.

70 | Section 2. Section 916.1095, Florida Statutes, is created
 71 | to read:

72 | 916.1095 Law Enforcement Behavioral Health Intervention
 73 | Unit Pilot Program.-

74 | (1) Subject to the receipt of grant funds and availability
 75 | of current funding and existing services in each county, the Law

76 Enforcement Behavioral Health Intervention Unit Pilot Program
77 shall be established in Flagler, Putnam, St. Johns, and Volusia
78 Counties for a period of 3 years. The purpose of the pilot
79 program is to divert individuals with mental health, substance
80 use, or co-occurring mental health and substance use disorders
81 into community-based treatment instead of the criminal justice
82 system and to prevent and reduce unnecessary escalation and use
83 of force in situations involving such individuals.

84 (2) Subject to the receipt of grant funds and availability
85 of current resources and existing services in each county, on or
86 before October 1, 2020, the sheriff's office in Flagler, Putnam,
87 St. Johns, and Volusia Counties shall each establish a
88 behavioral health intervention unit.

89 (3) Based on the resources and needs of the county, each
90 sheriff shall designate an appropriate number of deputies to be
91 assigned to the behavioral health intervention unit who shall
92 receive special training to:

93 (a) Understand the needs of individuals with mental
94 health, substance use, or co-occurring mental health and
95 substance use disorders.

96 (b) Respond to incidents involving such individuals.

97 (4) Training for deputies in the behavioral health
98 intervention unit shall be developed in consultation with a
99 statewide or national organization with expertise in mental
100 health crisis intervention. The training shall improve the

101 deputies' knowledge and skills as first responders to incidents
102 involving individuals with mental health, substance use, or co-
103 occurring mental health and substance use disorders, including
104 de-escalation techniques to ensure safety and decrease the
105 number of use of force incidents.

106 (5) Each behavioral health intervention unit shall consult
107 with a clinical psychologist, psychiatric nurse, or clinical
108 social worker licensed in this state to assist and support
109 deputies in crisis intervention and engaging individuals in
110 treatment and aftercare services.

111 (6) Each behavioral health intervention unit shall:

112 (a) Respond to emergency calls involving individuals
113 suspected of having a mental health, substance use, or co-
114 occurring mental health and substance use disorder.

115 (b) Implement strategies to engage such individuals in
116 treatment services for a mental health, substance use, or co-
117 occurring mental health and substance use disorder.

118 (c) In conjunction with a clinical psychologist,
119 psychiatric nurse, or clinical social worker licensed in this
120 state, develop a support services plan to assist individuals
121 with treatment, including, but not limited to, transportation
122 assistance, housing assistance, and educational or employment
123 opportunities.

124 (d) Implement strategies to monitor and maintain regular
125 contact with individuals engaged in treatment to ensure their

126 continued participation in treatment and aftercare services.

127 (7) By December 30, 2021, and by December 30 in each
128 subsequent year for the duration of the pilot program, the
129 sheriff's office in Flagler, Putnam, St. Johns, and Volusia
130 Counties shall each submit a report to the Governor, the
131 President of the Senate, and the Speaker of the House of
132 Representatives. The report shall include, but need not be
133 limited to:

134 (a) The number of emergency calls that the behavioral
135 health intervention unit responded to since October 1 of the
136 previous year and the disposition of those calls, including the
137 number of:

138 1. Arrests made and the criminal offense or offenses for
139 which an individual was arrested.

140 2. Individuals diverted to treatment services.

141 3. Individuals who refused treatment services.

142 4. Use of force incidents by a behavioral health
143 intervention unit deputy or other involved law enforcement
144 officer.

145 (b) The number and location of support services providers
146 that provided services to individuals under this section.

147 (c) The number of individuals who engaged in treatment and
148 aftercare services as a result of the pilot program.

149 (d) The average costs for services for individuals served.

150 (e) The per diem for a jail bed in the county's detention

151 facility.

152 (f) The number of individuals who engaged in treatment and
153 aftercare services who:

154 1. Initiated an emergency call for service within 3 months
155 after participating in treatment or aftercare services.

156 2. Were arrested for a criminal offense within 3 months
157 after participating in treatment or aftercare services.

158 (g) Recommendations for improving the pilot program and
159 behavioral health intervention unit.

160 (8) This section shall expire on December 31, 2023.

161 Section 3. Section 916.135, Florida Statutes, is created
162 to read:

163 916.135 Misdemeanor Mental Health Diversion Pilot
164 Program.—

165 (1) ESTABLISHMENT AND PURPOSE.—

166 (a) Subject to the receipt of grant funds and availability
167 of current resources and existing services in each county, on or
168 before October 1, 2020, the Misdemeanor Mental Health Diversion
169 Pilot Program shall be established in Flagler, Putnam, St.

170 Johns, and Volusia Counties for a period of 3 years. The purpose
171 of the program is to provide defendants charged with a

172 misdemeanor or an ordinance violation who may have a mental

173 health disorder the opportunity to be evaluated and to receive

174 appropriate treatment and services, to improve access to

175 community-based treatment and services, and to decrease criminal

176 justice spending by reducing recidivism.

177 (b) This pilot program does not replace any existing
178 mental health court or mental health diversion program currently
179 operating in Flagler, Putnam, St. Johns, or Volusia Counties,
180 but instead may be established in addition to such program as
181 necessary to most efficiently identify and provide treatment to
182 defendants with mental health disorders.

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

184 (a) "Defendant" means an adult who has been charged with a
185 misdemeanor offense or an ordinance violation under the laws of
186 this state or any of its political subdivisions.

187 (b) "Jail" means a county or city jail, county or city
188 stockade, or any other county or city facility used to detain
189 persons charged with or convicted of a misdemeanor offense or an
190 ordinance violation.

191 (c) "Misdemeanor court" means a county court or any court
192 presiding over misdemeanor offenses or ordinance violations
193 under the laws of this state or any of its political
194 subdivisions.

195 (3) INITIAL SCREENING PROCESS.—Within 24 hours after a
196 defendant is booked into a jail, the jail's corrections or
197 medical staff; a physician, clinical psychologist, psychiatric
198 nurse, or clinical social worker licensed in this state; or a
199 telehealth provider as defined in s. 456.47 may evaluate the
200 defendant using a standardized, validated mental health

201 screening instrument to determine if there is an indication that
202 the defendant has a mental health disorder. When possible, such
203 evaluation shall be completed before a defendant's first
204 appearance before a judge.

205 (a) If the evaluation indicates that the defendant may
206 have a mental health disorder and he or she meets the criteria
207 under s. 394.463 for involuntary examination under the Baker
208 Act, a professional certificate for involuntary examination
209 shall be issued and the defendant shall be transported within 72
210 hours to a crisis stabilization unit for further evaluation.

211 (b) If the evaluation indicates that the defendant may
212 have a mental health disorder, but the defendant does not meet
213 the criteria for involuntary examination under the Baker Act,
214 the defendant shall be provided the opportunity to be
215 voluntarily committed to a crisis stabilization unit for further
216 evaluation of his or her mental health disorder. A defendant's
217 voluntary commitment shall be by written agreement, pending the
218 availability of bed space at a crisis stabilization unit.

219 (c) If the evaluation indicates that the defendant may
220 have a mental health disorder, but the defendant does not meet
221 the criteria for involuntary examination under the Baker Act,
222 does not voluntarily agree to enter a crisis stabilization unit,
223 or is waiting to voluntarily enter a crisis stabilization unit
224 pending bed space, and the defendant remains in jail custody,
225 the defendant shall receive continued mental health treatment by

226 the jail's corrections or medical staff; a physician, clinical
227 psychologist, psychiatric nurse, or clinical social worker
228 licensed in this state; or a telehealth provider as defined in
229 s. 456.47. Alternatively, if such a defendant is released from
230 jail custody, the defendant shall be required to comply with any
231 court-ordered community-based mental health assessment or
232 treatment as a condition of the defendant's pretrial release.

233 (d) A transport order entered by the misdemeanor court
234 under paragraph (a) or paragraph (b) to a crisis stabilization
235 unit may be made with a hold for jail custody so that the crisis
236 stabilization unit can only release the defendant back to jail
237 custody, unless the misdemeanor court subsequently orders
238 otherwise. Alternatively, the misdemeanor court may request that
239 the defendant be transported back to appear before the
240 misdemeanor court, depending on the outcome of the evaluation at
241 the crisis stabilization unit and the availability of other
242 services or appropriate diversion programs in the county.

243 (4) SEPARATE MENTAL HEALTH COURT DOCKET.—

244 (a) The misdemeanor court shall place any defendant whose
245 initial evaluation under subsection (3) indicates a mental
246 health disorder on a separate mental health court docket and set
247 a review hearing within 2 weeks after the date he or she entered
248 a crisis stabilization unit or, if the defendant did not enter a
249 crisis stabilization unit, within 1 week after the date of his
250 or her initial evaluation.

251 (b) If a professional certificate for involuntary
252 evaluation of a defendant under the Baker Act is issued, the
253 speedy trial period is immediately tolled until the misdemeanor
254 court finds the defendant has completed all involuntary
255 evaluation, commitment, and treatment mandated under the Baker
256 Act.

257 (5) INPATIENT AND OUTPATIENT TREATMENT.—Once a defendant
258 enters a crisis stabilization unit under this section, either
259 voluntarily or involuntarily, the defendant shall be assessed
260 and evaluated to determine whether he or she meets the criteria
261 for involuntary commitment or involuntary outpatient treatment
262 under the Baker Act.

263 (a) If either set of criteria is met, the crisis
264 stabilization unit staff or staff at the local mental health
265 treatment center may forward to the misdemeanor court a
266 discharge plan or an outpatient treatment plan, as appropriate,
267 as soon as a plan is developed.

268 (b) If the defendant does not meet either set of criteria,
269 the crisis stabilization unit staff or staff at the local mental
270 health treatment center may issue an outpatient treatment plan
271 and promptly forward it to the misdemeanor court, or may notify
272 the misdemeanor court that no treatment is necessary.

273 (c) Upon receipt of a discharge plan or an outpatient
274 treatment plan, the misdemeanor court may consider releasing the
275 defendant on his or her own recognizance on the condition that

276 he or she comply with the discharge plan or outpatient treatment
277 plan and any additional court-imposed conditions, including
278 electronic monitoring.

279 (d) If a defendant's initial evaluation indicates a mental
280 health disorder, but he or she does not voluntarily or
281 involuntarily enter a crisis stabilization unit, the misdemeanor
282 court shall order the defendant to complete a follow-up
283 assessment within 48 hours after his or her release and to
284 comply with any recommended treatment at a local mental health
285 treatment center or a telehealth provider as defined in s.
286 456.47 as a condition of pretrial release. Alternatively, if the
287 defendant indicates that he or she has access to a private
288 physician, clinical psychologist, psychiatric nurse, or clinical
289 social worker licensed in this state, the misdemeanor court may
290 require the defendant to complete the follow-up assessment and
291 to comply with any recommended treatment from such private
292 provider.

293 (e) If, at any time, a crisis stabilization unit, local
294 mental health treatment center, telehealth provider as defined
295 in s. 456.47, or private physician, clinical psychologist,
296 psychiatric nurse, or clinical social worker licensed in this
297 state notifies the misdemeanor court that a defendant does not
298 have a mental health disorder or is not a candidate for mental
299 health treatment, the defendant's case shall be removed from the
300 mental health court docket, placed on the misdemeanor court's

301 regular court docket, and disposed of pursuant to the Florida
302 Rules of Criminal Procedure.

303 (6) COORDINATION WITH LAW ENFORCEMENT BEHAVIORAL HEALTH
304 INTERVENTION UNITS.—The applicable law enforcement behavioral
305 health intervention unit, as established under s. 916.1095,
306 shall be promptly notified when a defendant with an indication
307 of a mental health disorder is released from a jail or crisis
308 stabilization unit. Within 48 hours after receiving notification
309 of such a defendant's release, the law enforcement behavioral
310 health intervention unit shall attempt to make contact with the
311 defendant, and shall continue efforts to maintain regular
312 contact with the defendant thereafter, to offer and provide
313 reasonable assistance to ensure the defendant's continued
314 participation in treatment and aftercare services.

315 (7) SUCCESSFUL COMPLETION OF MENTAL HEALTH TREATMENT.—Upon
316 a defendant's successful completion of all treatment
317 recommendations from any mental health evaluation or assessment
318 completed under this section, the state attorney shall consider
319 dismissing the defendant's misdemeanor charge or charges. If the
320 state attorney determines that dismissal is not appropriate, the
321 parties shall consider referring the defendant's case to a
322 separate mental health court or other appropriate diversion
323 program, if available. Alternatively, the defendant may avail
324 himself or herself of the Florida Rules of Criminal Procedure to
325 contest the misdemeanor charge or charges.

326 (8) FAILURE TO COMPLETE MENTAL HEALTH TREATMENT.—

327 (a) If a defendant fails to comply with any aspect of his
328 or her pretrial release, including complying with a follow-up
329 assessment and recommended treatment or a discharge or
330 outpatient treatment plan, the misdemeanor court shall consider
331 information from any mental health service provider or law
332 enforcement behavioral health intervention unit member who had
333 contact with the defendant in determining whether further
334 efforts aimed at improving the defendant's compliance may be
335 successful before returning the defendant to jail.

336 (b) If the misdemeanor court determines that further
337 efforts to improve compliance are not appropriate, the
338 defendant's case shall be removed from the mental health court
339 docket, placed on the misdemeanor court's regular court docket,
340 and disposed of pursuant to the Florida Rules of Criminal
341 Procedure.

342 (9) ANNUAL REPORTS.—By December 30, 2021, and by December
343 30 in each subsequent year for the duration of the pilot
344 program, Flagler, Putnam, St. Johns, and Volusia Counties shall
345 each submit a report to the Governor, the President of the
346 Senate, and the Speaker of the House of Representatives. The
347 report shall include, but need not be limited to, the number of:

348 (a)1. Defendants who were initially evaluated for a mental
349 health disorder within 24 hours after being booked into a jail
350 and the number of defendants who were evaluated before a first

351 appearance before a judge.

352 2. Among these defendants, the number evaluated by:

353 a. Jail or corrections staff.

354 b. A physician, clinical psychologist, psychiatric nurse,

355 or clinical social worker licensed in this state.

356 c. A telehealth provider as defined in s. 456.47.

357 (b)1. Defendants whose initial evaluation after booking

358 indicated a mental health disorder and the type of mental health

359 disorder indicated for each such defendant.

360 2. Among these defendants, the number who:

361 a. Voluntarily entered a crisis stabilization unit.

362 b. Involuntarily entered a crisis stabilization unit.

363 c. Did not enter a crisis stabilization unit within 72

364 hours but later entered such unit either voluntarily or

365 involuntarily.

366 d. Never entered a crisis stabilization unit.

367 (c) Defendants who, after entering a crisis stabilization

368 unit, met the criteria for:

369 1. Involuntary commitment under the Baker Act; or

370 2. Involuntary outpatient treatment under the Baker Act.

371 (d)1. Defendants who entered a crisis stabilization unit

372 but did not meet the criteria for involuntary commitment or

373 treatment under the Baker Act.

374 2. Among these defendants, the number who:

375 a. Received an outpatient treatment plan.

376 b. Were not diagnosed with a mental health disorder or
377 recommended for further treatment.

378 (e)1. Defendants whom the misdemeanor court released from
379 jail conditioned upon completing a follow-up assessment within
380 48 hours and complying with any recommended treatment.

381 2. Among these defendants, the number who:

382 a. Failed to complete the required assessment.

383 b. Completed the required assessment but failed to comply
384 with the recommended treatment.

385 c. Completed the required assessment but were not
386 diagnosed with a mental health disorder or recommended for
387 further treatment.

388 (f) Defendants who successfully completed a recommended
389 mental health treatment plan after release from a crisis
390 stabilization unit and, for those who did not enter a crisis
391 stabilization unit, after release from jail.

392 (g) Defendants who were unsuccessful in completing a
393 recommended mental health treatment plan after release from a
394 crisis stabilization unit and, for those who did not enter a
395 crisis stabilization unit, after release from jail.

396 (h)1. Defendants who successfully completed a recommended
397 mental health treatment plan who committed another criminal
398 offense during the pilot program's reporting period.

399 2. Among these defendants, the number who:

400 a. Committed the same offense for which they entered the

401 pilot program.

402 b. Committed a different offense.

403 (i)1. Defendants identified as having a mental health
404 disorder who successfully completed mental health treatment and
405 the type and number of each offense charged.

406 2. Defendants identified as having a mental health
407 disorder who failed to complete mental health treatment and the
408 type and number of each offense charged.

409 (10) EXPIRATION.—This section shall expire on December 31,
410 2023.

411 Section 4. This act shall take effect July 1, 2020.