

By Senator Wright

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

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30 comply with certain mental health conditions of  
31 pretrial release; requiring the state attorney to  
32 consider dismissal of charges upon a defendant's  
33 successful completion of mental health treatment;  
34 requiring the court to consider specified information  
35 before a defendant is returned to jail; requiring  
36 annual reports by a specified date; providing  
37 reporting requirements; providing an expiration date;  
38 providing an effective date.

39  
40 Be It Enacted by the Legislature of the State of Florida:

41  
42 Section 1. Subsection (2) of section 394.658, Florida  
43 Statutes, is amended to read:

44 394.658 Criminal Justice, Mental Health, and Substance  
45 Abuse Reinvestment Grant Program requirements.—

46 (2) (a) As used in this subsection, the term "available  
47 resources" includes in-kind contributions from participating  
48 counties.

49 (b) A 1-year planning grant may not be awarded unless the  
50 applicant county makes available resources in an amount equal to  
51 the total amount of the grant. A planning grant may not be used  
52 to supplant funding for existing programs. For fiscally  
53 constrained counties, the available resources may be at 50  
54 percent of the total amount of the grant, except that fiscally  
55 constrained counties awarded grants to establish a law  
56 enforcement behavioral health intervention unit under s.  
57 916.1095 or to establish programs to divert misdemeanor  
58 defendants with mental health disorders from jails to community-

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59 based treatment under s. 916.135 may not be required to provide  
60 local matching funds.

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

76 Section 2. Section 916.1095, Florida Statutes, is created  
77 to read:

78 916.1095 Law Enforcement Behavioral Health Intervention  
79 Unit Pilot Program.—

80 (1) Subject to the receipt of grant funds and the  
81 availability of current funding and existing services in each  
82 county, the Law Enforcement Behavioral Health Intervention Unit  
83 Pilot Program is established in Flagler, Putnam, St. Johns, and  
84 Volusia Counties for a period of 3 years. The purpose of the  
85 pilot program is to divert individuals with mental health,  
86 substance use, or co-occurring mental health and substance use  
87 disorders into community-based treatment instead of the criminal

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88 justice system and to prevent and reduce unnecessary escalation  
89 and use of force in situations involving such individuals.

90 (2) Subject to the receipt of grant funds and the  
91 availability of current resources and existing services in each  
92 county, on or before October 1, 2021, the sheriff's office in  
93 Flagler, Putnam, St. Johns, and Volusia Counties shall each  
94 establish a behavioral health intervention unit.

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

99 (a) Understand the needs of individuals with mental health,  
100 substance use, or co-occurring mental health and substance use  
101 disorders; and

102 (b) Respond to incidents involving such individuals.

103 (4) Training for deputies in the behavioral health  
104 intervention unit shall be developed in consultation with a  
105 statewide or national organization with expertise in mental  
106 health crisis intervention. The training shall improve the  
107 deputies' knowledge and skills as first responders to incidents  
108 involving individuals with mental health, substance use, or co-  
109 occurring mental health and substance use disorders, including  
110 deescalation techniques to ensure safety and decrease the number  
111 of use of force incidents.

112 (5) Each behavioral health intervention unit shall consult  
113 with a clinical psychologist, psychiatric nurse, or clinical  
114 social worker licensed in this state to assist and support  
115 deputies in crisis intervention and engaging individuals in  
116 treatment and aftercare services.

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117 (6) Each behavioral health intervention unit shall:

118 (a) Respond to emergency calls involving individuals  
119 suspected of having a mental health, substance use, or co-  
120 occurring mental health and substance use disorder;

121 (b) Implement strategies to engage such individuals in  
122 treatment services for a mental health, substance use, or co-  
123 occurring mental health and substance use disorder;

124 (c) In conjunction with a clinical psychologist,  
125 psychiatric nurse, or clinical social worker licensed in this  
126 state, develop a support services plan to assist individuals  
127 with treatment, including, but not limited to, transportation  
128 assistance, housing assistance, and educational or employment  
129 opportunities; and

130 (d) Implement strategies to monitor and maintain regular  
131 contact with individuals engaged in treatment to ensure their  
132 continued participation in treatment and aftercare services.

133 (7) By December 30, 2022, and by December 30 in each  
134 subsequent year for the duration of the pilot program, the  
135 sheriff's office in Flagler, Putnam, St. Johns, and Volusia  
136 Counties shall each submit a report to the Governor, the  
137 President of the Senate, and the Speaker of the House of  
138 Representatives. The report shall include, but need not be  
139 limited to:

140 (a) The number of emergency calls the behavioral health  
141 intervention unit responded to since October 1 of the previous  
142 year and the disposition of those calls, including the number  
143 of:

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

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146       2. Individuals diverted to treatment services.  
 147       3. Individuals who refused treatment services.  
 148       4. Use of force incidents by a behavioral health  
 149 intervention unit deputy or other involved law enforcement  
 150 officer.  
 151       (b) The number and location of support services providers  
 152 that provided services to individuals under this section.  
 153       (c) The number of individuals who engaged in treatment and  
 154 aftercare services as a result of the pilot program.  
 155       (d) The average cost for services for individuals served.  
 156       (e) The per diem for a jail bed in the county's detention  
 157 facility.  
 158       (f) The number of individuals who engaged in treatment and  
 159 aftercare services who:  
 160           1. Initiated an emergency call for service within 3 months  
 161 after participating in treatment or aftercare services.  
 162           2. Were arrested for a criminal offense within 3 months  
 163 after participating in treatment or aftercare services.  
 164       (g) Recommendations for improving the pilot program and  
 165 behavioral health intervention unit.  
 166       (8) This section shall expire on December 31, 2024.  
 167       Section 3. Section 916.135, Florida Statutes, is created to  
 168 read:  
 169       916.135 Misdemeanor Mental Health Diversion Pilot Program.—  
 170       (1) ESTABLISHMENT AND PURPOSE.—  
 171           (a) Subject to the receipt of grant funds and the  
 172 availability of current resources and existing services in each  
 173 county, on or before October 1, 2021, the Misdemeanor Mental  
 174 Health Diversion Pilot Program shall be established in Flagler,

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175 Putnam, St. Johns, and Volusia Counties for a period of 3 years.  
176 The purpose of the program is to provide defendants charged with  
177 a misdemeanor offense or an ordinance violation who may have a  
178 mental health disorder the opportunity to be evaluated and to  
179 receive appropriate treatment and services, to improve access to  
180 community-based treatment and services, and to decrease criminal  
181 justice spending by reducing recidivism.

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

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

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

192 (b) "Jail" means a county or city jail, county or city  
193 stockade, or any other county or city facility used to detain  
194 persons charged with or convicted of a misdemeanor offense or an  
195 ordinance violation.

196 (c) "Misdemeanor court" means a county court or any court  
197 presiding over misdemeanor offenses or ordinance violations  
198 under the laws of this state or any of its political  
199 subdivisions.

200 (3) INITIAL SCREENING PROCESS.—Within 24 hours after a  
201 defendant is booked into a jail, the jail's corrections or  
202 medical staff; a physician, clinical psychologist, psychiatric  
203 nurse, or clinical social worker licensed in this state; or a

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204 telehealth provider as defined in s. 456.47(1) may evaluate the  
205 defendant using a standardized, validated mental health  
206 screening instrument to determine if there is an indication that  
207 the defendant has a mental health disorder. When possible, such  
208 evaluation shall be completed before a defendant's first  
209 appearance before a judge.

210 (a) If the evaluation indicates the defendant may have a  
211 mental health disorder and he or she meets the criteria under s.  
212 394.463 for involuntary examination under The Baker Act, a  
213 professional certificate for involuntary examination shall be  
214 issued and the defendant shall be transported within 72 hours to  
215 a crisis stabilization unit for further evaluation.

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

224 (c) If the evaluation indicates the defendant may have a  
225 mental health disorder, but the defendant does not meet the  
226 criteria for involuntary examination under The Baker Act, does  
227 not voluntarily agree to enter a crisis stabilization unit, or  
228 is waiting to voluntarily enter a crisis stabilization unit  
229 pending bed space, and the defendant remains in jail custody,  
230 the defendant shall receive continued mental health treatment by  
231 the jail's corrections or medical staff; a physician, clinical  
232 psychologist, psychiatric nurse, or clinical social worker



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233 licensed in this state; or a telehealth provider as defined in  
234 s. 456.47(1). Alternatively, if such a defendant is released  
235 from jail custody, the defendant shall be required to comply  
236 with any court-ordered, community-based mental health assessment  
237 or treatment as a condition of the defendant's pretrial release.

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

248 (4) SEPARATE MENTAL HEALTH COURT DOCKET.—

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

256 (b) If a professional certificate for involuntary  
257 examination of a defendant under The Baker Act is issued, the  
258 speedy trial period is immediately tolled until the misdemeanor  
259 court finds the defendant has completed all involuntary  
260 examination, commitment, and treatment mandated under The Baker  
261 Act.

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

268 (a) If either set of criteria is met, the crisis  
269 stabilization unit staff or staff at the local mental health  
270 treatment center may forward to the misdemeanor court a  
271 discharge plan or an outpatient treatment plan, as appropriate,  
272 as soon as a plan is developed.

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

278 (c) Upon receipt of a discharge plan or an outpatient  
279 treatment plan, the misdemeanor court may consider releasing the  
280 defendant on his or her own recognizance on the condition that  
281 he or she comply with the discharge plan or outpatient treatment  
282 plan and any additional court-imposed conditions, including  
283 electronic monitoring.

284 (d) If a defendant's initial evaluation indicates a mental  
285 health disorder, but he or she does not voluntarily or  
286 involuntarily enter a crisis stabilization unit, the misdemeanor  
287 court shall order the defendant to complete a follow-up  
288 assessment within 48 hours after his or her release and to  
289 comply with any recommended treatment at a local mental health  
290 treatment center or a telehealth provider as defined in s.

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291 456.47(1) as a condition of pretrial release. Alternatively, if  
292 the defendant indicates he or she has access to a private  
293 physician, clinical psychologist, psychiatric nurse, or clinical  
294 social worker licensed in this state, the misdemeanor court may  
295 require the defendant to complete the follow-up assessment and  
296 to comply with any recommended treatment from such private  
297 provider.

298 (e) If, at any time, a crisis stabilization unit, local  
299 mental health treatment center, telehealth provider as defined  
300 in s. 456.47(1), or private physician, clinical psychologist,  
301 psychiatric nurse, or clinical social worker licensed in this  
302 state notifies the misdemeanor court that a defendant does not  
303 have a mental health disorder or is not a candidate for mental  
304 health treatment, the defendant's case shall be removed from the  
305 mental health court docket, placed on the misdemeanor court's  
306 regular court docket, and disposed of pursuant to the Florida  
307 Rules of Criminal Procedure.

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

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

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

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

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

347 (9) ANNUAL REPORTS.—By December 30, 2022, and by December  
348 30 in each subsequent year for the duration of the pilot

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349 program, Flagler, Putnam, St. Johns, and Volusia Counties shall  
350 each submit a report to the Governor, the President of the  
351 Senate, and the Speaker of the House of Representatives. The  
352 report shall include, but need not be limited to, the number of:

353 (a)1. Defendants who were initially evaluated for a mental  
354 health disorder within 24 hours after being booked into a jail  
355 and the number of defendants who were evaluated before a first  
356 appearance before a judge.

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

358 a. Jail or corrections staff.

359 b. A physician, clinical psychologist, psychiatric nurse,  
360 or clinical social worker licensed in this state.

361 c. A telehealth provider as defined in s. 456.47(1).

362 (b)1. Defendants whose initial evaluation after booking  
363 indicated a mental health disorder and the type of mental health  
364 disorder indicated for each such defendant.

365 2. Among these defendants, the number who:

366 a. Voluntarily entered a crisis stabilization unit.

367 b. Involuntarily entered a crisis stabilization unit.

368 c. Did not enter a crisis stabilization unit within 72  
369 hours but later entered such unit either voluntarily or  
370 involuntarily.

371 d. Never entered a crisis stabilization unit.

372 (c) Defendants who, after entering a crisis stabilization  
373 unit, met the criteria for:

374 1. Involuntary commitment under The Baker Act; or

375 2. Involuntary outpatient treatment under The Baker Act.

376 (d)1. Defendants who entered a crisis stabilization unit  
377 but did not meet the criteria for involuntary commitment or

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378 treatment under The Baker Act.

379 2. Among these defendants, the number who:

380 a. Received an outpatient treatment plan.

381 b. Were not diagnosed with a mental health disorder or

382 recommended for further treatment.

383 (e)1. Defendants who the misdemeanor court released from

384 jail conditioned upon completing a follow-up assessment within

385 48 hours and complying with any recommended treatment.

386 2. Among these defendants, the number who:

387 a. Failed to complete the required assessment.

388 b. Completed the required assessment but failed to comply

389 with the recommended treatment.

390 c. Completed the required assessment but were not diagnosed

391 with a mental health disorder or recommended for further

392 treatment.

393 (f) Defendants who successfully completed a recommended

394 mental health treatment plan after release from a crisis

395 stabilization unit and, for those who did not enter a crisis

396 stabilization unit, after release from jail.

397 (g) Defendants who were unsuccessful in completing a

398 recommended mental health treatment plan after release from a

399 crisis stabilization unit and, for those who did not enter a

400 crisis stabilization unit, after release from jail.

401 (h)1. Defendants who successfully completed a recommended

402 mental health treatment plan who committed another criminal

403 offense during the pilot program's reporting period.

404 2. Among these defendants, the number who:

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

406 pilot program.

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407 b. Committed a different offense.

408 (i)1. Defendants identified as having a mental health  
409 disorder who successfully completed mental health treatment and  
410 the type and number of each offense with which each defendant  
411 was charged.

412 2. Defendants identified as having a mental health disorder  
413 who failed to complete mental health treatment and the type and  
414 number of each offense with which each defendant was charged.

415 (10) EXPIRATION.—This section shall expire on December 31,  
416 2024.

417 Section 4. This act shall take effect July 1, 2021.