

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 1227 Problem-solving Courts
SPONSOR(S): Maney and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 508

FINAL HOUSE FLOOR ACTION: 116 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 1227 passed the House on May 3, 2023, as SB 508.

Problem-solving courts are designed to address the root causes of a person's involvement with the justice system. Problem-solving courts utilize specialized court dockets, multidisciplinary teams, and a non-adversarial approach to ensure a person receives the individualized treatment he or she needs to successfully leave the justice system. As of December 2022, there were at least 183 problem-solving courts in Florida. Problem-solving courts relevant to this bill include drug courts and mental health courts. Since problem-solving courts are a collaborative process, participation is voluntary. Some persons are excluded from participation in certain problem-solving courts due to a conviction for specified disqualifying offenses.

The Office of the State Courts Administrator (OSCA) provides assistance to problem-solving courts by promulgating best practice standards, collecting data, and providing specified training related to problem-solving courts.

The bill revises standards related to the operations, and eligibility for participating in, specified problem-solving court programs. Specifically, the bill:

- Amends s. 397.334, F.S., to require a drug court program coordinator, rather than the circuit court, to collect specified programmatic information and client-level data and annually report such information to OSCA.
- Amends s. 948.08(6), F.S., to:
 - Eliminate the requirement that a substance abuse education and treatment intervention program have a duration of at least one year; and
 - Remove the ability of a court or a state attorney to deny a defendant admission to a substance abuse education and treatment intervention program if he or she previously rejected an offer to enter such a program.
- Amends s. 948.08(8), F.S., to allow a person with a prior felony conviction to participate in a mental health court program.
- Amends s. 948.16, F.S., to revise the eligibility requirements for participation in a misdemeanor pretrial substance abuse education and treatment intervention program to authorize a person charged with *any* misdemeanor offense to participate in such a program if he or she is also identified as having a substance abuse problem and was not previously convicted of a felony.

The bill may have an indeterminate fiscal impact to OSCA. It is anticipated that any initial impact to workload could be handled within existing resources, and upon implementation, any future resource needs could be requested through the annual Legislative Budget Request process.

The bill was approved by the Governor on June 5, 2023, ch. 2023-191, L.O.F., and will become effective on July 1, 2023.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Problem-solving Courts

Problem-solving courts are designed to address the root causes of a person's involvement with the justice system.¹ Problem-solving courts utilize specialized court dockets, multidisciplinary teams, and a non-adversarial approach to ensure a person receives the individualized treatment he or she needs to successfully leave the justice system.² As of December 2022, there were at least 183 problem-solving courts in Florida.³ The most common types of problem-solving courts include:

- Adult Drug Courts;
- Mental Health Courts;
- Early Childhood Courts;
- Veterans Courts;
- Juvenile Drug Courts;
- Dependency Drug Courts; and
- DUI Courts.⁴

Participation in problem-solving courts is a voluntary, collaborative process, however, persons may be disqualified from participation in certain problem-solving courts due to a conviction for specified disqualifying offenses.

The Office of the State Courts Administrator (OSCA) provides assistance to problem-solving courts by promulgating best practice standards, collecting data, and providing specified training related to problem-solving courts.⁵ The Steering Committee on Problem-Solving Courts, which makes recommendations to OSCA on development of statewide problem-solving courts recommended several changes related to problem-solving courts which are incorporated in HB 1227.⁶

Substance Abuse Programs

Drug Courts

Section 397.334, F.S., authorizes each county to fund a treatment-based drug court treatment program. A treatment-based drug court program may be offered as a voluntary pretrial program or as a post-adjudicatory program as a condition of probation or community control.⁷ Under current law, each judicial circuit must collect client-level data and programmatic data and report such data to OSCA annually for purposes of program evaluation.⁸

"Client-level data" includes the underlying offenses that resulted in the referral to the treatment-based drug court, treatment compliance, completion status, any offenses committed during treatment and the sanctions imposed, and the frequency of court appearances.⁹

¹ Office of the State Courts Administrator (OSCA), *Florida Problem-Solving Courts Report*, <https://www.flcourts.gov/content/download/832345/file/2021%20Florida%20Problem-Solving%20Courts%20Report%20FINAL.pdf> (last visited Apr. 7, 2023).

² *Id.*

³ OSCA, *Office of Problem-Solving Courts*, <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts> (last visited Apr. 7, 2023).

⁴ *Id.*

⁵ OSCA, *supra* note 3.

⁶ 2023 Judicial Branch Substantive Legislative Agenda pp. 12-13. (Jan. 26, 2023).

⁷ S. 397.334(2) and (3), F.S.

⁸ *Id.*

⁹ S. 397.334(6)(b), F.S.

“Programmatic data” includes referral and screening procedures, eligibility criteria, type and duration of treatment offered, and residential treatment resources.¹⁰ According to OSCA, it does not currently perform program evaluations, so the detailed reporting required under current law is burdensome and unnecessary.¹¹

Admission to Substance Abuse Education and Treatment Intervention Programs – Felony Offenses

Section 948.08(6), F.S., establishes, and provides eligibility criteria for participation in, a pretrial intervention program for a person who was arrested for a felony offense, including a substance abuse education and treatment intervention program, which includes a drug court program created under s. 397.334, F.S. A person is eligible for voluntary admission to such a program, which must be at least one year in duration, if he or she:

- Is identified as having a substance abuse problem and is amenable to treatment;
- Is charged with a nonviolent felony;¹²
- Has never been charged with a crime involving violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence; and
- Has two or fewer felony convictions, provided that the prior convictions are for nonviolent felonies.

A court is required to admit an eligible person into a substance abuse education and treatment intervention program except that:

- A court or a state attorney may deny a defendant admission to a pretrial substance abuse education intervention program if the defendant was previously offered admission to such a program and he or she rejected the offer on the record.
- A court may deny the defendant’s entry into such a program if the state attorney establishes, by a preponderance of the evidence at a preadmission hearing, that the defendant was involved in the dealing or selling of controlled substances.
- A court may, at its discretion, deny a defendant’s entry into such a program if the defendant has two or fewer prior felony convictions.¹³

Admission to Substance Abuse Education and Treatment Intervention Programs – Misdemeanor Offenses

Section 948.16, F.S., establishes, and provides eligibility criteria for participation in, a pretrial intervention program for a person who is charged with a misdemeanor offense, including a substance abuse education and treatment intervention program or drug court program created under s. 397.334, F.S. A person is eligible to participate in such a program if he or she has not previously been convicted of a felony and is charged with:

- A nonviolent, nontraffic-related misdemeanor and is identified as having a substance abuse problem;
- Misdemeanor possession of a controlled substance or drug paraphernalia under ch. 893, F.S.;
- Prostitution under s. 796.07, F.S.;
- Possession of alcohol while under 21 years of age under s. 562.111, F.S.; or
- Possession of a controlled substance without a valid prescription under s. 499.03, F.S.

¹⁰ *Id.*

¹¹ OSCA 2023 Judicial Impact Statement, Analysis of HB 1227, pp. 1-2 (Mar. 3, 2023).

¹² A “nonviolent felony” means a third degree felony violation of ch. 810, F.S., or any other felony offense that is not a forcible felony as defined in s. 776.08, F.S. S. 948.08(6)(a), F.S.

¹³ S. 948.08(6)(c), F.S.

A court must deny the defendant's entry into such a program if the state attorney establishes, by a preponderance of the evidence at a preadmission hearing, that the defendant was involved in the dealing or selling of controlled substances.¹⁴

Admission to Mental Health Court Programs

Section 948.08(8), F.S., establishes, and provides eligibility criteria for voluntary entry into, a pretrial mental health court program established under s. 394.47892, F.S.¹⁵ A defendant is eligible for entry into such a program if he or she:

- Is identified as having a mental illness;
- Has not been convicted of a felony; and
- Is charged with:
 - A nonviolent felony that includes a third degree felony violation of ch. 810, F.S.,¹⁶ or any other felony offense that is not a forcible felony as defined in s. 776.08, F.S.;¹⁷
 - Resisting an officer with violence under s. 843.01, F.S., or battery on a law enforcement officer under s. 784.07, F.S., if the law enforcement officer and state attorney consent to the defendant's participation; or
 - Aggravated assault, if the victim and state attorney consent to the defendant's participation.

Effect of the Bill

Substance Abuse Programs

Drug Courts

The bill amends s. 397.334, F.S., to require the treatment-based drug court program coordinator, rather than the circuit court, to collect the client-level data and programmatic information¹⁸ that is required to be collected under current law. The bill removes the requirement for a treatment-based drug court program to report detailed client-level data to OSCA. Under the bill, a treatment-based drug court program is still required to report annually to OSCA the programmatic information relating to the program, and the bill requires a program to annually report aggregate data on the number of treatment-based drug court program admissions and terminations by type of termination in such program.

Admission to Substance Abuse Education and Treatment Intervention Programs – Felony Offenses

The bill amends s. 948.08(6), F.S., to eliminate the requirement that a substance abuse education and treatment intervention program have a duration of at least one year. The bill leaves the duration of such a program to the discretion of a court based on the clinical needs of the defendant. The bill also removes the ability of a court or a state attorney to deny a defendant admission to a substance abuse education and treatment intervention program if he or she previously rejected an offer to enter such a program.

Admission to Substance Abuse Education and Treatment Intervention Programs – Misdemeanor Offenses

¹⁴ S. 948.16(1)(a), F.S.

¹⁵ Section 394.47892, F.S., authorizes each county to fund a voluntary mental health court program, which includes both pretrial and post-adjudicatory programs.

¹⁶ Ch. 810, F.S., includes offenses such as burglary, trespass, and voyeurism.

¹⁷ A "forcible felony" includes the offenses of treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual. S. 776.08, F.S.

¹⁸ The bill changed the term "programmatic data" to "programmatic information."

The bill amends s. 948.16, F.S., to revise the eligibility requirements for participation in a misdemeanor pretrial substance abuse education and treatment intervention program to authorize a person charged with *any* misdemeanor offense to participate in such a program if he or she is also identified as having a substance abuse problem and has not been previously been convicted of a felony. As such, the bill authorizes eligibility for a defendant who is charged with a violent misdemeanor or traffic-related misdemeanor.

Admission to Mental Health Court Programs

The bill amends s. 948.08(8), F.S., to remove the disqualification from participating in a mental health court program if a person has previously been convicted of a felony. As such, the bill generally aligns the eligibility requirements for a mental health court program with the eligibility requirements for a substance abuse education and treatment intervention program.¹⁹

The effective date of this bill is July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fical Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to OSCA, “[t]he fiscal impact of this legislation cannot be accurately determined due to the unavailability of data needed to quantifiably establish the effects on judicial time and workload resulting from the expansion of problem-solving court eligibility, revised data reporting requirements, and changes to the minimum time required to complete a treatment-based drug court program....”²⁰ It is anticipated that any initial impact to workload could be handled within existing resources, and upon implementation, any future resource needs could be requested through the annual Legislative Budget

¹⁹ The eligibility requirements for a substance abuse education and treatment intervention program were amended in 2019. See ch. 2019-167, Laws of Fla.

²⁰ OSCA, *supra* note 11 at 3.

Request process.