

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 1434

INTRODUCER: Criminal Justice Committee and Senator Book

SUBJECT: Pretrial Intervention Programs

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	Fav/CS
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1434 amends s. 948.08(6)(b), F.S., to exclude certain persons from admission into a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, F.S.

Specifically, persons who are charged with any offense listed in s. 775.21, F.S., or s. 943.0435, F.S., or with s. 836.05(1), F.S., if that subsection was violated with sexual intent or motive, are not eligible for the programs. Section 775.21, F.S., lists the offenses in the Florida Sexual Predators Act; s. 943.0435, F.S., contains the offenses in the sexual offenders statute; and s. 836.05(1), F.S., prohibits the crime of extortion.

The bill becomes effective July 1, 2024.

II. Present Situation:

Intervention and Treatment-Based Program Criteria

Pretrial intervention programs,¹ treatment-based drug court programs,² and pretrial substance abuse education and treatment intervention programs,³ are available to persons who meet the statutory criteria and other requirements.

For example, any first time offender, or any person previously convicted of not more than one nonviolent misdemeanor, who is charged with any misdemeanor or felony of the third degree is eligible for release to the pretrial intervention program on the approval of:

- The administrator of the program and the consent of the victim;
- The state attorney; and
- The judge who presided at the initial appearance hearing of the offender.⁴

However, the defendant may not be released to the pretrial intervention program unless, after consultation with his or her attorney, he or she has voluntarily agreed to such program and has knowingly and intelligently waived his or her right to a speedy trial for the period of his or her diversion.⁵ Resumption of pending criminal proceedings shall be undertaken at any time if the program administrator or state attorney finds that the offender is not fulfilling his or her obligations under this plan or if the public interest so requires.⁶

Pursuant to s. 948.08(b), F.S., a person who might be otherwise amenable to a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program listed above, does not meet the criteria if he or she:

- Is 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; or
- Has three or more nonviolent felony convictions.⁷

III. Effect of Proposed Changes:

The bill amends s. 948.08(6)(b), F.S., to exclude certain persons from admission into a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, F.S.

Specifically, persons who are also charged with any offense listed in s. 775.21, F.S., or s. 943.0435, F.S., or with s. 836.05(1), F.S., if that subsection was violated with sexual intent or motive, are not eligible for the programs. Section 775.21, F.S., lists the offenses in the Florida

¹ Section 948.08, F.S.

² Section 397.334, F.S.

³ Section 948.16, F.S.

⁴ Section 948.08(2), F.S.

⁵ *Id.*

⁶ Section 948.08(4), F.S.

⁷ Section 948.08(6)(b), F.S.

Sexual Predators Act; s. 943.0435, F.S., contains the offenses in the sexual offenders statute; and s. 836.05(1), F.S., prohibits the crime of extortion.

The bill reenacts ss. 43.51, 394.47892, 397.334, 910.035, 944.026, and 948.036 F.S, to incorporate the amendment made to s. 948.08, F.S., by the bill.

The bill becomes effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None anticipated since the bill does not increase any existing penalties nor create any new ones.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 948.08, 43.51, 394.47892, 397.334, 910.035, 944.026, and 948.036.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on February 6, 2024:

The committee substitute:

- Removes provisions in the bill describing as “sexual offenses” the crimes that would make a person ineligible for the pretrial programs covered in the bill.
- Provides that persons who are charged with any offense listed in s. 775.21, F.S., or s. 943.0435, F.S., or with s. 836.05(1), F.S., if that subsection was violated with sexual intent or motive, are not eligible for the programs cited in the bill.

- B. **Amendments:**

None.