

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/CS/CS/HB 1095](#)

TITLE: Criminal Offender Substance Abuse Pilot Program

SPONSOR(S): Koster

COMPANION BILL: [CS/CS/SB 1140](#) (Gruters)

LINKED BILLS: None

RELATED BILLS: None

FINAL HOUSE FLOOR ACTION: 111 Y's

0 N's

GOVERNOR'S ACTION:

Pending

SUMMARY

Effect of the Bill:

The bill creates a Substance Abuse Accountability Pilot Program to be administered by the Hillsborough County Sheriff's Office from October 1, 2025, through September 30, 2027, for individuals convicted of a felony or first-degree misdemeanor and required to abstain from alcohol or controlled substances as a condition of probation. Under the bill, all eligible individuals have the same probability of being randomly assigned to the program, however, no more than 150 people may participate at one time. Generally, a participant's term of participation must be for the same length as the term of probation for which he or she was sentenced, but may not exceed the expiration of the program. The bill requires participants to submit to alcohol or drug testing at frequent, specified intervals and requires a participant to be arrested and serve up to 24 hours in county jail for committing any program violation. The bill specifies that participants are entitled to an attorney at any court hearing related to the program. Under the bill, participants must pay all fees associated with participation in the program, but a court may reduce program fees for indigent individuals. The bill requires the Attorney General to complete an evaluation of the program's effectiveness and submit a report containing specified information to the Governor and Legislature by November 30, 2028.

Fiscal or Economic Impact:

The bill may have an indeterminate positive impact on jail beds by requiring pilot program participants to serve specified jail sentences for violating a condition of the program. The bill may have an indeterminate positive impact on the private sector by requiring participants to pay fees associated with testing under the program, which may include fees to private vendors. Any fiscal impact to the state government is subject to legislative appropriation.

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ANALYSIS

EFFECT OF THE BILL:

Substance Abuse Accountability Pilot Program

The bill creates a Substance Abuse Accountability Pilot Program in Hillsborough County from October 1, 2025, through September 30, 2027. The program applies to individuals who are:

- Convicted of a felony or first-degree misdemeanor;
- Placed on [probation](#); and
- Required to abstain from alcohol or controlled substances as a condition of release. (Section [1](#))

Under the bill, all eligible individuals have the same probability of being randomly assigned to participate, however, no more than 150 people may participate at any one time. Prior to entering any plea agreement that includes a term of probation and any condition of compliance that would make a person eligible for the program, a person must be informed of all terms and conditions of the program and explicitly advised that he or she may be randomly assigned to the program. The person must acknowledge in writing that he or she understands such terms and conditions and is entering a plea freely and voluntarily. (Section [1](#))

Under the bill, a participant's term of participation in the program must generally be for the same length as the term of probation for which he or she was sentenced, but may not exceed the expiration of the program. Upon successful completion of half the term of participation, the court may place the person on [administrative probation](#)

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pursuant to [s. 948.013, F.S.](#), for the remainder of the term of supervision, or may terminate the person's probation and participation in the program. (Section [1](#))

Additionally, participants must attend an in-person judicial hearing at which a judge must explain program conditions and sanctions for noncompliance. Participants are entitled to an attorney at any court hearing related to the program, and the court must appoint a public defender for a participant who is eligible to be represented by a public defender under [s. 27.51, F.S.](#) (Section [1](#))

The bill specifies that a court may not order participation in the program in lieu of mandatory placement of an ignition interlock device as described in [s. 316.193, F.S.](#) (Section [1](#))

Design and Implementation

The Hillsborough County Sheriff must design and implement the program in consultation with the Chief Judge of the 13th Judicial Circuit, the State Attorney, and the Department of Corrections, and may also contract with a third party for assistance. The sheriff must also manage participant supervision, but upon discharge from the program, participants must be managed in accordance with current law for any remaining term of supervision. (Section [1](#))

The program must include a program coordinator whose duties include identifying and hiring personnel to ensure efficient program administration, and the sheriff may make subgrants to any appropriate agency for hiring program personnel. (Section [1](#))

Testing Requirements

The bill requires a participant who is ordered to abstain from alcohol to be tested twice per day by mobile breath alcohol testing. Testing must be completed in person at the sheriff's office or an alternate location designated by the sheriff's office, approximately 12 hours apart. If a court determines that in-person testing is unreasonably burdensome to a participant, it may instead order the participant to wear a continuous monitoring device capable of detecting and signaling the presence of alcohol. A court may reduce the frequency of testing for alcohol consumption to once per day for a participant who has zero adjudicated program violations for 60 consecutive days. (Section [1](#))

The bill requires a participant who is ordered to abstain from controlled substances to be tested randomly, at least twice every 7 days, with no fewer than 60 hours between tests. Testing must be completed in person at the sheriff's office or an alternate location designated by the sheriff's office, by a method determined by the sheriff. A court may reduce the frequency of testing for controlled substances to once per week for a participant who has zero adjudicated program violations for 6 consecutive months. (Section [1](#))

Violations

Under the bill, missed tests, failed tests, and alerts by a continuous monitoring device of a positive test result are probable cause that a participant has violated the program. However, the bill specifies that the presence of a federally approved medication lawfully prescribed to a participant for the treatment of a substance use disorder does not constitute a failed test or positive test result for purposes of establishing probable cause. The following conditions apply when there is probable cause that a program participant has committed a violation:

- The participant must be arrested at the earliest opportunity and held in county jail until he or she is taken for an appearance before a judge, which must occur no later than 24 hours after the participant's arrest.
- The participant must serve 24 hours in county jail upon a judicial finding that a participant has violated the program, with credit for time served between the participant's arrest and the judicial finding.
- A participant must be released at the earliest possible opportunity if his or her alleged violation is not adjudicated within 24 hours of arrest, but such release does not end the offender's participation in the program.
- Upon five adjudicated violations of program conditions, a court may discharge the participant from the program and sentence the offender as authorized by law. A court is not precluded from modifying the conditions of a participant's supervision, including revocation of supervision, upon any other violation of supervision conditions. (Section [1](#))

Costs and Evaluation

The bill requires participants to pay all fees associated with participation in the program, but authorizes a court to reduce or eliminate program fees for indigent participants. (Section [1](#))

By June 30, 2028, the bill requires the Attorney General to complete an evaluation of the program's effectiveness and authorizes him or her to contract with a third party to conduct any program evaluations. A report on the pilot program must include the number of program participants, the number of program violations, and the number of successful program completions, and be delivered to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 30, 2028. (Section [1](#))

Program Funding

The bill authorizes the state courts system to pass-through any funds specifically appropriated for the pilot program to the entity responsible for program design and implementation. The bill specifies that any funds specifically appropriated for the program must be used for any expenses related to establishing and administering the program, including personnel, equipment, training and technical assistance, payments for jail space, data collection, program evaluations, and program fees for indigent participants. (Section [2](#))

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2025. (Section [3](#))

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have an indeterminate impact on state expenditures to the extent the bill authorizes the state courts system to distribute funds specifically appropriated for the program to the responsible entity. Any such impact is subject to legislative appropriation.

LOCAL GOVERNMENT:

The bill may have an indeterminate positive impact on jail beds by requiring pilot program participants to serve specified jail sentences for violating a condition of the program. The impact of jail admissions under the pilot program is indeterminate due to the unknown number of participants and their current length of sentence where violations may apply. The bill authorizes appropriated funds to be used, in part, for jail space.

PRIVATE SECTOR:

The bill may have an indeterminate positive impact on the private sector by requiring participants to pay fees associated with testing under the program, which may include fees to private vendors for the use of alcohol and drug monitoring devices.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Probation

A court may sentence an offender to probation in lieu of, or in addition to, incarceration.¹ Probation is a form of community supervision requiring specified contacts with a probation officer and other terms and conditions,² including, but not limited to, a person:

- Submitting to random testing as directed by his or her probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances;
- Being prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician, an advanced practice registered nurse, or a physician assistant; and

¹ S. [948.01, F.S.](#)

² S. [948.001\(8\), F.S.](#)

- Remaining away from places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.³

Several standard conditions of probation apply automatically, including requirements to report to a probation officer as directed and to live without violating any law.⁴ The court may also impose special conditions of probation.⁵

Violation of Probation

Generally, upon a finding that an offender violated probation the court may revoke, modify, or continue supervision.⁶ If the court chooses to revoke supervision, it may impose any sentence that was permissible at the offender's initial sentencing.⁷ The offender is entitled to an attorney at a probation revocation hearing, unless there has been an informed waiver.⁸

Upon revocation of supervision for a felony offense, the court is bound by the sentencing guidelines under the Criminal Punishment Code (CPC).⁹ The sentencing guidelines provide a formula for computation of the lowest permissible prison sentence, based on a number of factors such as the offender's current and prior offenses. If an offender's probation is revoked and the court sentences the offender under the sentencing guidelines, the violation of probation and any successive violations that an offender has committed are factored into the sentencing formula as a "community sanction violation."¹⁰ The court must make written findings, contemporaneous with sentencing for the revocation of supervision, to justify a downward departure and sentence an offender to less than the lowest permissible sentence.¹¹

Alternative Sanctioning Program

Under [s. 948.06\(9\), F.S.](#), each judicial circuit must establish an alternative sanctioning program (ASP), and the chief judge may, by administrative order, define additional sanctions or eligibility criteria and specify the process for reporting technical violations through the ASP. Any sanctions recommended for imposition through an ASP must be submitted to the court by the probation officer for approval before imposition.¹²

The participation of a probationer in an ASP is voluntary, and such participant may waive or discontinue participation in the program at any time before the court imposes a recommended sanction.¹³

A probationer who commits a technical violation that is eligible for an ASP may:

- Waive participation in the program, in which case the probation officer may submit a violation report, affidavit, and warrant to the court; or
- Elect to participate in the program after receiving written notice of an alleged technical violation and disclosure of the evidence against him or her, and admit the technical violation, agree to comply with the probation officer's recommended sanction if subsequently ordered by the court, and agree to waive the right to:
 - Be represented by legal counsel.
 - Require the state to prove his or her guilt before a neutral and detached hearing body.
 - Subpoena witnesses and present to a judge evidence in his or her defense.
 - Confront and cross-examine adverse witnesses.

³ S. [948.03\(1\), F.S.](#)

⁴ S. [948.03\(1\), F.S.](#)

⁵ S. [948.03\(2\), F.S.](#)

⁶ S. [948.06\(2\)\(b\), F.S.](#)

⁷ *Id.*

⁸ *State v. Hicks*, 478 So. 2d 22, 23 (Fla. 1985).

⁹ S. [921.0022, F.S.](#)

¹⁰ S. [921.0024, F.S.](#)

¹¹ *State v. Roman*, 634 So. 2d 291 (Fla. 1st DCA 1994).

¹² S. [948.06\(9\)\(a\), F.S.](#)

¹³ S. [948.06\(9\)\(g\), F.S.](#)

- Receive a written statement from a judge as to the evidence relied on and the reasons for the sanction imposed.¹⁴

Additionally, if the probationer admits to committing the technical violation and agrees with the probation officer's recommended sanction, the probation officer must, before imposing the sanction, submit the recommended sanction to the court with documentation reflecting the probationer's admission to the technical violation and agreement with the recommended sanction.

The court may impose the recommended sanction or direct the department to submit a violation report, affidavit, and warrant to the court.¹⁵ If a probationer waives or discontinues participation in the program or fails to successfully complete all alternative sanctions within 90 days after imposition or within the timeframe specified in the agreed-upon sanction, the probation officer may submit a violation report, affidavit, and warrant to the court. A prior admission by the probationer to a technical violation may not be used as evidence in subsequent proceedings.¹⁶

Violations under an ASP are classified as "low" or "moderate." In relevant part, a "low-risk" violation includes:

- *A positive drug or alcohol test result.*
- Failure to report to the probation office.
- Failure to report a change in address or other required information.
- *Failure to attend a required class, treatment or counseling session, or meeting.*
- *Failure to submit to a drug or alcohol test.*
- A violation of curfew.
- Failure to meet a monthly quota on any required probation condition, including, but not limited to, making restitution payments, paying court costs, or completing community service hours.
- Leaving the county without permission.
- Failure to report a change in employment.
- Associating with a person engaged in criminal activity.
- *Any other violation as determined by administrative order of the chief judge of the circuit.*¹⁷

For a first or second "low-risk" violation within the current term of supervision, a probation officer may, in part, offer an eligible probationer one or more of the following as an alternative sanction:

- Up to 5 days in the county jail;
- Up to 50 additional community service hours;
- Counseling or treatment;
- Support group attendance;
- Drug testing;
- Loss of travel or other privileges;
- Curfew for up to 30 days; or
- House arrest for up to 30 days.¹⁸

Administrative Probation

Under [s. 948.013, F.S.](#), the Department of Corrections (DOC) may transfer an offender to administrative probation if he or she presents a low risk of harm to the community and has satisfactorily completed at least half of his or her probation term. DOC may establish procedures for transferring an offender to administrative probation, but specified offenders are ineligible for placement on administrative probation, including individuals who were sentenced to or serving a term of probation for:

- Kidnapping or false imprisonment under [s. 787.01, F.S.](#) or [s. 787.02, F.S.](#), where the victim is a minor and the defendant is not the victim's parent;
- Luring or enticing a child under [s. 787.025, F.S.](#);

¹⁴ [S. 948.06\(9\)\(h\), F.S.](#)

¹⁵ [S. 948.06\(9\)\(i\), F.S.](#)

¹⁶ [S. 948.06\(9\)\(j\), F.S.](#)

¹⁷ [S. 948.06\(9\)\(b\), F.S.](#)

¹⁸ [S. 948.06\(9\)\(e\), F.S.](#)

- Human trafficking under [s. 787.06\(3\)\(g\), F.S.](#);
- Sexual battery under chapter 794, F.S.;
- Former s. 796.03, F.S.;
- Lewd or lascivious conduct against a person under 16 years of age, under [s. 800.04, F.S.](#);
- Lewd or lascivious conduct against an elderly or disabled person under [s. 825.1025\(2\)\(b\), F.S.](#);
- Sexual performance by a child or child pornography under [s. 827.071, F.S.](#);
- Obscenity under [s. 847.0133, F.S.](#);
- Online solicitation of a minor, traveling to meet a minor, or prohibited computer usage under [s. 847.0135, F.S.](#);
- Buying or selling minors under [s. 847.0145, F.S.](#); or
- Offenses related to sexual predator and sexual offender status under [s. 775.21\(4\)\(a\)1.a. or b., F.S.](#) or [s. 943.0435\(1\)\(h\)1.a., F.S.](#)