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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2025	.	
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The Committee on Criminal Justice (Bradley) recommended the following:

**Senate Amendment**

Delete lines 375 - 499  
and insert:  
be followed.

If the assessment under this paragraph results in an outpatient treatment plan, and the defendant has not already been released, the defendant may be released on his or her own recognizance on the condition that all treatment recommendations must be



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11 followed. The state attorney and the defense attorney must have  
12 an opportunity to be heard before the court releases the  
13 defendant.

14 (f) If the defendant is released from the custody of the  
15 jail on pretrial release at any point before the completion of  
16 the process in this section, evaluation or assessment of the  
17 defendant under this section by a qualified mental health  
18 professional may be initiated at any time by order of the court  
19 at the request of the state attorney or the defense attorney, or  
20 on the court's own motion. If this process results in the  
21 creation of a discharge plan by a receiving facility or an  
22 outpatient treatment plan by the local mental health treatment  
23 center, the court may set as a condition of the defendant's  
24 continued pretrial release compliance with all of the terms of  
25 the discharge plan or outpatient treatment plan.

26 (4) If a defendant has not been referred to the diversion  
27 program under this section, the state attorney, the defense  
28 attorney, or the court may, at any stage of the criminal  
29 proceedings, request that the defendant be screened pursuant to  
30 subsection (3) to determine if there is an indication of mental  
31 illness. If the defendant is no longer in custody, the defendant  
32 may be evaluated or assessed pursuant to paragraph (3)(f).

33 (5) Upon the defendant's successful completion of all of  
34 the treatment recommendations from any mental health evaluation  
35 or assessment completed pursuant to this section, the state  
36 attorney must consider dismissal of the charges. If dismissal is  
37 deemed inappropriate by the state attorney, the state attorney  
38 may consider referral of the defendant's case to mental health  
39 court or another available mental health diversion program.



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40       (6) If the defendant fails to comply with any aspect of his  
41 or her discharge or outpatient treatment plan under this  
42 section, the court may exhaust therapeutic interventions aimed  
43 at improving compliance before considering returning the  
44 defendant to the jail.

45       Section 5. Section 916.136, Florida Statutes, is created to  
46 read:

47       916.136 Pretrial felony mental health diversion program.—

48       (1) As used in this section, the term:

49       (a) "Conviction" means a determination of guilt that is the  
50 result of a plea agreement, including a plea of nolo contendere,  
51 or trial. For purposes of this section, a conviction does not  
52 include an offense for which an adjudication of guilt was  
53 withheld.

54       (b) "Court" means a circuit court or any court presiding  
55 over felony violations under the laws of this state or any of  
56 its political subdivisions.

57       (c) "Defendant" means a person who has been charged as an  
58 adult by a law enforcement agency or a state attorney with a  
59 felony of the second degree or felony of the third degree, and  
60 who is eligible for the diversion program as provided in  
61 subsection (3).

62       (d) "Qualified mental health professional" means a  
63 physician, a physician assistant, a clinical psychologist, a  
64 psychiatric nurse, an advanced practice registered nurse  
65 registered under s. 464.0123, or a mental health counselor, a  
66 marriage and family therapist, or a clinical social worker, as  
67 those terms are defined in s. 394.455.

68       (2) A community desiring to establish a pretrial felony



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69 mental health diversion program to divert clinically appropriate  
70 defendants from jails to treatment is encouraged to apply for  
71 the Criminal Justice, Mental Health, and Substance Abuse  
72 Reinvestment Grant Program under s. 394.656 for the purpose of  
73 obtaining funds to plan, implement, or expand such programs.  
74 This section provides a model process for diverting such  
75 defendants to treatment, but this process may be modified  
76 according to each community's particular resources.

77 (a) The local sheriff's department, the state attorney, the  
78 public defender, the court, and local treatment providers may  
79 collaborate to establish policies and procedures to meet the  
80 specific needs of each community and to develop a form that a  
81 defendant must sign to consent to treatment.

82 (b) A consent form must include the defendant's consent to  
83 treatment and to the release of any records necessary to  
84 demonstrate compliance with and completion of treatment.  
85 Additionally, such form must include that the defendant agrees  
86 to waive his or her right to a speedy trial by participating in  
87 the diversion program. A defendant must sign the consent form to  
88 participate in the diversion program.

89 (3) A defendant may be eligible for the pretrial felony  
90 mental health diversion program under this section if he or she  
91 meets the following criteria:

92 (a) Has a mental illness;

93 (b) Has no more than three prior felony convictions in the  
94 past 5 years;

95 (c) Is not charged with a violent felony; and

96 (d) Does not have a significant history of violence.

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98 The state attorney has the sole discretion to determine a  
99 defendant's eligibility for the pretrial felony mental health  
100 diversion program. Meeting the criteria in this subsection does  
101 not guarantee eligibility. Additionally, the state attorney may,  
102 in extenuating circumstances, waive the criteria in this  
103 subsection if he or she finds that it is in the interest of  
104 justice.

105 (4) At any stage in the pretrial process, the state  
106 attorney may recommend that a defendant be screened using a  
107 standardized, validated mental health screening instrument to  
108 determine if there is an indication of mental illness. Such  
109 screening may be completed by the jail's corrections or medical  
110 staff or by any qualified mental health professional. The  
111 results of such screening must be forwarded to the state  
112 attorney and the defense attorney.

113 (5) If there is an indication of mental illness, the state  
114 attorney may consider an offer of pretrial felony mental health  
115 diversion under this section. Entry into the diversion program  
116 is voluntary, and the defendant must sign the consent form as  
117 described in subsection (2) before participating in the program.

118 (6) Upon the defendant agreeing to participate in pretrial  
119 felony mental health diversion under this section, the defendant  
120 must be assessed for outpatient treatment by a local mental  
121 health treatment center. This assessment may be completed:

122 (a) At the jail via telehealth assessment by the local  
123 mental health treatment center;

124 (b) At the local mental health treatment center after the  
125 sheriff or jail authorities transport the defendant to and from  
126 the treatment center; or



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127        (c) By releasing the defendant on his or her own  
128 recognizance on the conditions that the assessment be completed  
129 at the local mental health treatment center within 48 hours  
130 after his or her release and that all treatment recommendations  
131 be followed.

132  
133 If the assessment under this subsection results in an outpatient