

**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 Criminal Justice Committee

BILL: SB 104

INTRODUCER: Senator Ring

SUBJECT: Misdemeanor Pretrial Substance Abuse Programs

DATE: March 3, 2011

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	<b>Favorable</b>
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill expands the pool of people who are eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program by removing the requirement that a person not have previously been admitted into a pretrial program in order to participate in such programs.

This bill substantially amends section 948.16 of the Florida Statutes.

**II. Present Situation:**

Section 948.16, F.S., specifies that a person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S., and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program, for a period based on the program requirements and the treatment plan for the offender.

Admission may be based upon motion of either party or the court except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into the pretrial intervention program.

Participants in the program are subject to a coordinated strategy developed by a drug court team under s. 397.334(4), F.S., which may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court.

At the end of the pretrial intervention period, the court must:

- Consider the recommendation of the treatment program;
- Consider the recommendation of the state attorney as to disposition of the pending charges; and
- Determine, by written finding, whether the defendant successfully completed the pretrial intervention program.

If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution. The court must dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.

### **III. Effect of Proposed Changes:**

Under current law only persons who have been charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under ch. 893, F.S., and who have not previously been convicted of a felony nor been admitted to a pretrial program, are eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program.

The bill expands the pool of people who are eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program by removing the requirement that a person not have previously been admitted into a pretrial program in order to participate in such programs.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The bill as written could expand the number of potential participants in county-funded misdemeanor pretrial substance abuse education and treatment intervention programs. Although no potential fiscal impact has been brought to our attention, it is conceivable that the counties may decide to increase program capacity which would result in increased expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

## B. Amendments:

None.