

1 A bill to be entitled
 2 An act relating to treatment-based drug court programs;
 3 amending s. 397.334, F.S.; requiring all offenders
 4 sentenced to a postadjudicatory drug court program who are
 5 drug court participants who are the subject of a violation
 6 of probation or community control hearing under specified
 7 provisions to have the violation of probation or community
 8 control heard by the judge presiding over the drug court
 9 program; providing that treatment-based drug court
 10 programs may include postadjudicatory programs provided
 11 under specified provisions; amending s. 921.0026, F.S.;
 12 increasing the number of Criminal Punishment Code
 13 scoresheet total sentence points that a defendant may have
 14 and be eligible for a postadjudicatory treatment-based
 15 drug court program; amending s. 948.01, F.S.; increasing
 16 the number of Criminal Punishment Code scoresheet total
 17 sentence points that a defendant may have and be eligible
 18 for a postadjudicatory treatment-based drug court program;
 19 amending s. 948.06, F.S.; making defendants other than
 20 those who have violated probation or community control by
 21 a failed or suspect substance abuse test eligible for
 22 postadjudicatory treatment-based drug court programs;
 23 increasing the number of Criminal Punishment Code
 24 scoresheet total sentence points that a defendant may have
 25 and be eligible for a postadjudicatory treatment-based
 26 drug court program; amending s. 948.20, F.S.; increasing
 27 the number of Criminal Punishment Code scoresheet total
 28 sentence points that a defendant may have and be eligible

29 | for a postadjudicatory treatment-based drug court program;
 30 | providing an effective date.

31 |

32 | Be It Enacted by the Legislature of the State of Florida:

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34 | Section 1. Paragraph (b) of subsection (3) and subsection
 35 | (5) of section 397.334, Florida Statutes, are amended to read:

36 | 397.334 Treatment-based drug court programs.—

37 | (3)

38 | (b) An offender who is sentenced to a postadjudicatory
 39 | drug court program and who, while a drug court participant, is
 40 | the subject of a violation of probation or community control
 41 | under s. 948.06, ~~based solely upon a failed or suspect substance~~
 42 | ~~abuse test administered pursuant to s. 948.01 or s. 948.03,~~
 43 | shall have the violation of probation or community control heard
 44 | by the judge presiding over the postadjudicatory drug court
 45 | program. The judge shall dispose of any such violation, after a
 46 | hearing on or admission of the violation, as he or she deems
 47 | appropriate if the resulting sentence or conditions are lawful.

48 | (5) Treatment-based drug court programs may include
 49 | pretrial intervention programs as provided in ss. 948.08,
 50 | 948.16, and 985.345, treatment-based drug court programs
 51 | authorized in chapter 39, postadjudicatory programs as provided
 52 | in ss. 948.01, 948.06, and 948.20, and review of the status of
 53 | compliance or noncompliance of sentenced offenders through a
 54 | treatment-based drug court program. While enrolled in a
 55 | treatment-based drug court program, the participant is subject
 56 | to a coordinated strategy developed by a drug court team under

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57 subsection (4). The coordinated strategy may include a protocol
58 of sanctions that may be imposed upon the participant for
59 noncompliance with program rules. The protocol of sanctions may
60 include, but is not limited to, placement in a substance abuse
61 treatment program offered by a licensed service provider as
62 defined in s. 397.311 or in a jail-based treatment program or
63 serving a period of secure detention under chapter 985 if a
64 child or a period of incarceration within the time limits
65 established for contempt of court if an adult. The coordinated
66 strategy must be provided in writing to the participant before
67 the participant agrees to enter into a treatment-based drug
68 court program.

69 Section 2. Paragraph (m) of subsection (2) of section
70 921.0026, Florida Statutes, is amended to read:

71 921.0026 Mitigating circumstances.—This section applies to
72 any felony offense, except any capital felony, committed on or
73 after October 1, 1998.

74 (2) Mitigating circumstances under which a departure from
75 the lowest permissible sentence is reasonably justified include,
76 but are not limited to:

77 (m) The defendant's offense is a nonviolent felony, the
78 defendant's Criminal Punishment Code scoresheet total sentence
79 points under s. 921.0024 are 60 ~~52~~ points or fewer, and the
80 court determines that the defendant is amenable to the services
81 of a postadjudicatory treatment-based drug court program and is
82 otherwise qualified to participate in the program as part of the
83 sentence. For purposes of this paragraph, the term "nonviolent
84 felony" has the same meaning as provided in s. 948.08(6).

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85 Section 3. Paragraph (a) of subsection (7) of section
 86 948.01, Florida Statutes, is amended to read:

87 948.01 When court may place defendant on probation or into
 88 community control.—

89 (7) (a) Notwithstanding s. 921.0024 and effective for
 90 offenses committed on or after July 1, 2009, the sentencing
 91 court may place the defendant into a postadjudicatory treatment-
 92 based drug court program if the defendant's Criminal Punishment
 93 Code scoresheet total sentence points under s. 921.0024 are 60
 94 ~~52~~ points or fewer, ~~and the offense defendant~~ is a nonviolent
 95 felony ~~offender~~, the defendant is amenable to substance abuse
 96 treatment, and the defendant otherwise qualifies under s.
 97 397.334(3). The satisfactory completion of the program shall be
 98 a condition of the defendant's probation or community control.
 99 As used in this subsection, the term "nonviolent felony" means a
 100 third degree felony violation under chapter 810 or any other
 101 felony offense that is not a forcible felony as defined in s.
 102 776.08.

103 Section 4. Paragraph (i) of subsection (2) of section
 104 948.06, Florida Statutes, is amended to read:

105 948.06 Violation of probation or community control;
 106 revocation; modification; continuance; failure to pay
 107 restitution or cost of supervision.—

108 (2)

109 (i)1. Notwithstanding s. 921.0024 and effective for
 110 offenses committed on or after July 1, 2009, the court may order
 111 the defendant to successfully complete a postadjudicatory
 112 treatment-based drug court program if:

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113 a. The court finds or the offender admits that the
114 offender has violated his or her community control or probation
115 ~~and the violation was due only to a failed or suspect substance~~
116 ~~abuse test;~~

117 b. The offender's Criminal Punishment Code scoresheet
118 total sentence points under s. 921.0024 are 60 ~~52~~ points or
119 fewer after including points for the violation;

120 c. The underlying offense is a nonviolent felony. As used
121 in this subsection, the term "nonviolent felony" means a third
122 degree felony violation under chapter 810 or any other felony
123 offense that is not a forcible felony as defined in s. 776.08;

124 d. The court determines that the offender is amenable to
125 the services of a postadjudicatory treatment-based drug court
126 program;

127 e. The court has explained the purpose of the program to
128 the offender and the offender has agreed to participate; and

129 f. The offender is otherwise qualified to participate in
130 the program under the provisions of s. 397.334(3).

131 2. After the court orders the modification of community
132 control or probation, the original sentencing court shall
133 relinquish jurisdiction of the offender's case to the
134 postadjudicatory treatment-based drug court program until the
135 offender is no longer active in the program, the case is
136 returned to the sentencing court due to the offender's
137 termination from the program for failure to comply with the
138 terms thereof, or the offender's sentence is completed.

139 Section 5. Section 948.20, Florida Statutes, is amended to
140 read:

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141 948.20 Drug offender probation.—

142 (1) If it appears to the court upon a hearing that the
143 defendant is a chronic substance abuser whose criminal conduct
144 is a violation of s. 893.13(2)(a) or (6)(a), or other nonviolent
145 felony if such nonviolent felony is committed on or after July
146 1, 2009, and notwithstanding s. 921.0024 the defendant's
147 Criminal Punishment Code scoresheet total sentence points are 60
148 ~~52~~ points or fewer, the court may either adjudge the defendant
149 guilty or stay and withhold the adjudication of guilt. In either
150 case, the court may also stay and withhold the imposition of
151 sentence and place the defendant on drug offender probation or
152 into a postadjudicatory treatment-based drug court program if
153 the defendant otherwise qualifies. As used in this section, the
154 term "nonviolent felony" means a third degree felony violation
155 under chapter 810 or any other felony offense that is not a
156 forcible felony as defined in s. 776.08.

157 (2)~~(1)~~ The Department of Corrections shall develop and
158 administer a drug offender probation program which emphasizes a
159 combination of treatment and intensive community supervision
160 approaches and which includes provision for supervision of
161 offenders in accordance with a specific treatment plan. The
162 program may include the use of graduated sanctions consistent
163 with the conditions imposed by the court. Drug offender
164 probation status shall include surveillance and random drug
165 testing, and may include those measures normally associated with
166 community control, except that specific treatment conditions and
167 other treatment approaches necessary to monitor this population
168 may be ordered.

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169 (3)~~(2)~~ Offenders placed on drug offender probation are
170 subject to revocation of probation as provided in s. 948.06.
171 Section 6. This act shall take effect July 1, 2011.