

By Senator Lynn

7-591-03

See HB

1 A bill to be entitled
2 An act relating to substance abuse treatment
3 and intervention; amending s. 39.001, F.S.;
4 providing additional legislative findings and
5 purposes with respect to the treatment of
6 substance abuse; amending ss. 39.402 and
7 39.407, F.S.; authorizing the court to order
8 specified persons to submit to a substance
9 abuse assessment upon a showing of good cause
10 in connection with a shelter hearing or
11 petition for dependency; authorizing sanctions
12 for noncompliance; amending ss. 39.507 and
13 39.521, F.S.; authorizing the court to order
14 specified persons to submit to a substance
15 abuse assessment as part of an adjudicatory
16 order or pursuant to a disposition hearing;
17 requiring a showing of good cause; authorizing
18 the court to require participation in a
19 treatment-based drug court program; authorizing
20 the court to impose sanctions for
21 noncompliance; amending s. 39.701, F.S.;
22 authorizing the court to extend the time for
23 completing a case plan during judicial review,
24 based upon participation in a treatment-based
25 drug court program; amending s. 397.334, F.S.;
26 revising legislative intent with respect to
27 treatment-based drug court programs to reflect
28 participation by community support agencies,
29 the Department of Education, and other
30 individuals; including post adjudicatory
31 programs as part of treatment-based drug court

1 programs; requiring each judicial circuit to
2 establish a position for a coordinator of the
3 treatment-based drug court program; requiring
4 the chief judge of each judicial circuit to
5 appoint an advisory committee for the
6 treatment-based drug court program; providing
7 for membership of the committee; revising
8 language with respect to an annual report;
9 amending s. 910.035, F.S.; revising language
10 with respect to conditions for the transfer of
11 a case in the drug court treatment program to a
12 county other than that in which the charge
13 arose; amending s. 948.08, F.S.; revising
14 eligibility requirements for participation in
15 pretrial intervention programs; authorizing the
16 court to refer certain defendants who are
17 assessed with a substance abuse problem to a
18 pretrial intervention program with the approval
19 of the state attorney; deleting provisions
20 authorizing advisory committees for the
21 district pretrial intervention programs;
22 amending s. 985.306, F.S.; revising eligibility
23 requirements for participation in delinquency
24 pretrial intervention programs; authorizing the
25 court to refer certain juveniles who are
26 assessed as having a substance abuse problem to
27 a substance abuse education and treatment
28 intervention program; deleting provisions
29 authorizing advisory committees for the
30 district delinquency pretrial intervention
31 program; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2
3 Section 1. Subsection (4) of section 39.001, Florida
4 Statutes, is amended to read:

5 39.001 Purposes and intent; personnel standards and
6 screening.--

7 (4) SUBSTANCE ABUSE SERVICES.--

8 (a) The Legislature recognizes that substance abuse is
9 a primary cause of the dramatic rise in cases of child abuse
10 and neglect, immeasurably increases the complexity of cases in
11 the dependency system, severely compromises or destroys the
12 ability of parents to provide a safe and nurturing home for
13 children, and severely confounds the dependency system's
14 ability to protect children. The Legislature also recognizes
15 that early referral and comprehensive treatment can help
16 combat substance abuse in families and that treatment is
17 cost-effective. The Legislature further recognizes that
18 treatment-based drug court program models that integrate
19 judicial supervision, treatment, accountability, sanctions,
20 and community support greatly increase the effectiveness of
21 substance abuse treatment and reduce the number of cases of
22 child abuse and neglect.

23 (b) The substance abuse treatment and family safety
24 programs of the Department of Children and Family Services
25 have identified the following goals for this state:

26 1. Ensure the safety of children.

27 2. Prevent and remediate the consequences of substance
28 abuse on families involved in protective supervision or foster
29 care and reduce substance abuse, including alcohol abuse, for
30 families who are at risk of being involved in protective
31 supervision or foster care.

1 3. Expedite permanency for children and reunify
2 healthy, intact families, when appropriate.

3 4. Support families in recovery.

4 (c) The Legislature finds that children in the care of
5 the state's dependency system need appropriate health care
6 services, that the impact of substance abuse on health
7 indicates the need for health care services to include
8 substance abuse services to children and parents where
9 appropriate, and that it is in the state's best interest that
10 such children be provided the services they need to enable
11 them to become and remain independent of state care. In order
12 to provide these services, the state's dependency system must
13 have the ability to identify and provide appropriate
14 intervention and treatment for children with personal or
15 family-related substance abuse problems.

16 (d) Parents and children should be assessed early and
17 continually in the process, but not later than the conference
18 date of the case planning process, to identify substance abuse
19 problems and appropriately address the severity of the
20 substance abuse problem. Participation in treatment, including
21 a treatment-based drug court program, may be required by the
22 court following adjudication. This subsection does not prevent
23 a child's parent, and, when appropriate, the legal custodian,
24 from voluntarily entering treatment, including a
25 treatment-based drug court program, at the earliest stage of
26 the process.

27 (e) It is therefore the purpose of the Legislature to
28 provide authority for the state to contract with community
29 substance abuse treatment providers for the development and
30 operation of specialized support and overlay services for the
31

1 dependency system, which will be fully implemented and used
2 utilized as resources permit.

3 (f) It is the intent of the Legislature to encourage
4 the Department of Children and Family Services, in conjunction
5 with community agencies; treatment-based facilities;
6 facilities dedicated to child welfare, child development, and
7 mental health services; the Department of Health; other
8 similar agencies; local governments; law enforcement agencies;
9 and other interested public or private sources to support the
10 drug court program model. Participation in the treatment-based
11 drug court program does not divest any public or private
12 agency of its responsibility for a child or adult, but enables
13 these agencies to better meet their needs through shared
14 responsibility and resources.

15 Section 2. Present subsections (11) through (16) of
16 section 39.402, Florida Statutes, are renumbered as
17 subsections (12) through (17), respectively, and a new
18 subsection (11) is added to that section, to read:

19 39.402 Placement in a shelter.--

20 (11) At the shelter hearing, if the mental or physical
21 condition of a child or the child's parent, caregiver, legal
22 custodian, or other person requesting custody of the child is
23 in controversy, the court may order the person to submit to a
24 substance abuse assessment or evaluation. The assessment or
25 evaluation must be administered by a qualified professional,
26 as defined in s. 397.311. The order may be made only upon good
27 cause shown and pursuant to the notice and procedures set
28 forth in the Florida Rules of Juvenile Procedure.

29 Section 3. Section 39.407, Florida Statutes, is
30 amended to read:

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1 39.407 Medical, psychiatric, and psychological
2 examination and treatment of child; physical, or mental, or
3 substance abuse examination of parent or person requesting
4 custody of child.--

5 (1) When any child is removed from the home and
6 maintained in an out-of-home placement, the department is
7 authorized to have a medical screening performed on the child
8 without authorization from the court and without consent from
9 a parent or legal custodian. Such medical screening shall be
10 performed by a licensed health care professional and shall be
11 to examine the child for injury, illness, and communicable
12 diseases and to determine the need for immunization. The
13 department shall by rule establish the invasiveness of the
14 medical procedures authorized to be performed under this
15 subsection. In no case does this subsection authorize the
16 department to consent to medical treatment for such children.

17 (2) When the department has performed the medical
18 screening authorized by subsection (1), or when it is
19 otherwise determined by a licensed health care professional
20 that a child who is in an out-of-home placement, but who has
21 not been committed to the department, is in need of medical
22 treatment, including the need for immunization, consent for
23 medical treatment shall be obtained in the following manner:

24 (a)1. Consent to medical treatment shall be obtained
25 from a parent or legal custodian of the child; or

26 2. A court order for such treatment shall be obtained.

27 (b) If a parent or legal custodian of the child is
28 unavailable and his or her whereabouts cannot be reasonably
29 ascertained, and it is after normal working hours so that a
30 court order cannot reasonably be obtained, an authorized agent
31 of the department shall have the authority to consent to

1 necessary medical treatment, including immunization, for the
2 child. The authority of the department to consent to medical
3 treatment in this circumstance shall be limited to the time
4 reasonably necessary to obtain court authorization.

5 (c) If a parent or legal custodian of the child is
6 available but refuses to consent to the necessary treatment,
7 including immunization, a court order shall be required unless
8 the situation meets the definition of an emergency in s.
9 743.064 or the treatment needed is related to suspected abuse,
10 abandonment, or neglect of the child by a parent, caregiver,
11 or legal custodian. In such case, the department shall have
12 the authority to consent to necessary medical treatment. This
13 authority is limited to the time reasonably necessary to
14 obtain court authorization.

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16 In no case shall the department consent to sterilization,
17 abortion, or termination of life support.

18 (3)(a) A judge may order a child in an out-of-home
19 placement to be examined by a licensed health care
20 professional.

21 (b) The judge may also order such child to be
22 evaluated by a psychiatrist or a psychologist or, if a
23 developmental disability is suspected or alleged, by the
24 developmental disability diagnostic and evaluation team of the
25 department. If it is necessary to place a child in a
26 residential facility for such evaluation, the criteria and
27 procedure established in s. 394.463(2) or chapter 393 shall be
28 used, whichever is applicable.

29 (c) The judge may also order such child to be
30 evaluated by a district school board educational needs
31 assessment team. The educational needs assessment provided by

1 the district school board educational needs assessment team
2 shall include, but not be limited to, reports of intelligence
3 and achievement tests, screening for learning disabilities and
4 other handicaps, and screening for the need for alternative
5 education as defined in s. 1001.42.

6 (4) A judge may order a child in an out-of-home
7 placement to be treated by a licensed health care professional
8 based on evidence that the child should receive treatment. The
9 judge may also order such child to receive mental health or
10 developmental disabilities services from a psychiatrist,
11 psychologist, or other appropriate service provider. Except as
12 provided in subsection (5), if it is necessary to place the
13 child in a residential facility for such services, the
14 procedures and criteria established in s. 394.467 or chapter
15 393 shall be used, whichever is applicable. A child may be
16 provided developmental disabilities or mental health services
17 in emergency situations, pursuant to the procedures and
18 criteria contained in s. 394.463(1) or chapter 393, whichever
19 is applicable.

20 (5) Children who are in the legal custody of the
21 department may be placed by the department, without prior
22 approval of the court, in a residential treatment center
23 licensed under s. 394.875 or a hospital licensed under chapter
24 395 for residential mental health treatment only pursuant to
25 this section or may be placed by the court in accordance with
26 an order of involuntary examination or involuntary placement
27 entered pursuant to s. 394.463 or s. 394.467. All children
28 placed in a residential treatment program under this
29 subsection must have a guardian ad litem appointed.

30 (a) As used in this subsection, the term:
31

1 1. "Residential treatment" means placement for
2 observation, diagnosis, or treatment of an emotional
3 disturbance in a residential treatment center licensed under
4 s. 394.875 or a hospital licensed under chapter 395.

5 2. "Least restrictive alternative" means the treatment
6 and conditions of treatment that, separately and in
7 combination, are no more intrusive or restrictive of freedom
8 than reasonably necessary to achieve a substantial therapeutic
9 benefit or to protect the child or adolescent or others from
10 physical injury.

11 3. "Suitable for residential treatment" or
12 "suitability" means a determination concerning a child or
13 adolescent with an emotional disturbance as defined in s.
14 394.492(5) or a serious emotional disturbance as defined in s.
15 394.492(6) that each of the following criteria is met:

16 a. The child requires residential treatment.

17 b. The child is in need of a residential treatment
18 program and is expected to benefit from mental health
19 treatment.

20 c. An appropriate, less restrictive alternative to
21 residential treatment is unavailable.

22 (b) Whenever the department believes that a child in
23 its legal custody is emotionally disturbed and may need
24 residential treatment, an examination and suitability
25 assessment must be conducted by a qualified evaluator who is
26 appointed by the Agency for Health Care Administration. This
27 suitability assessment must be completed before the placement
28 of the child in a residential treatment center for emotionally
29 disturbed children and adolescents or a hospital. The
30 qualified evaluator must be a psychiatrist or a psychologist
31 licensed in Florida who has at least 3 years of experience in

1 the diagnosis and treatment of serious emotional disturbances
2 in children and adolescents and who has no actual or perceived
3 conflict of interest with any inpatient facility or
4 residential treatment center or program.

5 (c) Before a child is admitted under this subsection,
6 the child shall be assessed for suitability for residential
7 treatment by a qualified evaluator who has conducted a
8 personal examination and assessment of the child and has made
9 written findings that:

10 1. The child appears to have an emotional disturbance
11 serious enough to require residential treatment and is
12 reasonably likely to benefit from the treatment.

13 2. The child has been provided with a clinically
14 appropriate explanation of the nature and purpose of the
15 treatment.

16 3. All available modalities of treatment less
17 restrictive than residential treatment have been considered,
18 and a less restrictive alternative that would offer comparable
19 benefits to the child is unavailable.

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21 A copy of the written findings of the evaluation and
22 suitability assessment must be provided to the department and
23 to the guardian ad litem, who shall have the opportunity to
24 discuss the findings with the evaluator.

25 (d) Immediately upon placing a child in a residential
26 treatment program under this section, the department must
27 notify the guardian ad litem and the court having jurisdiction
28 over the child and must provide the guardian ad litem and the
29 court with a copy of the assessment by the qualified
30 evaluator.

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1 (e) Within 10 days after the admission of a child to a
2 residential treatment program, the director of the residential
3 treatment program or the director's designee must ensure that
4 an individualized plan of treatment has been prepared by the
5 program and has been explained to the child, to the
6 department, and to the guardian ad litem, and submitted to the
7 department. The child must be involved in the preparation of
8 the plan to the maximum feasible extent consistent with his or
9 her ability to understand and participate, and the guardian ad
10 litem and the child's foster parents must be involved to the
11 maximum extent consistent with the child's treatment needs.
12 The plan must include a preliminary plan for residential
13 treatment and aftercare upon completion of residential
14 treatment. The plan must include specific behavioral and
15 emotional goals against which the success of the residential
16 treatment may be measured. A copy of the plan must be provided
17 to the child, to the guardian ad litem, and to the department.

18 (f) Within 30 days after admission, the residential
19 treatment program must review the appropriateness and
20 suitability of the child's placement in the program. The
21 residential treatment program must determine whether the child
22 is receiving benefit toward the treatment goals and whether
23 the child could be treated in a less restrictive treatment
24 program. The residential treatment program shall prepare a
25 written report of its findings and submit the report to the
26 guardian ad litem and to the department. The department must
27 submit the report to the court. The report must include a
28 discharge plan for the child. The residential treatment
29 program must continue to evaluate the child's treatment
30 progress every 30 days thereafter and must include its
31 findings in a written report submitted to the department. The

1 department may not reimburse a facility until the facility has
2 submitted every written report that is due.

3 (g)1. The department must submit, at the beginning of
4 each month, to the court having jurisdiction over the child, a
5 written report regarding the child's progress toward achieving
6 the goals specified in the individualized plan of treatment.

7 2. The court must conduct a hearing to review the
8 status of the child's residential treatment plan no later than
9 3 months after the child's admission to the residential
10 treatment program. An independent review of the child's
11 progress toward achieving the goals and objectives of the
12 treatment plan must be completed by a qualified evaluator and
13 submitted to the court before its 3-month review.

14 3. For any child in residential treatment at the time
15 a judicial review is held pursuant to s. 39.701, the child's
16 continued placement in residential treatment must be a subject
17 of the judicial review.

18 4. If at any time the court determines that the child
19 is not suitable for continued residential treatment, the court
20 shall order the department to place the child in the least
21 restrictive setting that is best suited to meet his or her
22 needs.

23 (h) After the initial 3-month review, the court must
24 conduct a review of the child's residential treatment plan
25 every 90 days.

26 (i) The department must adopt rules for implementing
27 timeframes for the completion of suitability assessments by
28 qualified evaluators and a procedure that includes timeframes
29 for completing the 3-month independent review by the qualified
30 evaluators of the child's progress toward achieving the goals
31 and objectives of the treatment plan which review must be

1 submitted to the court. The Agency for Health Care
2 Administration must adopt rules for the registration of
3 qualified evaluators, the procedure for selecting the
4 evaluators to conduct the reviews required under this section,
5 and a reasonable, cost-efficient fee schedule for qualified
6 evaluators.

7 (6) When a child is in an out-of-home placement, a
8 licensed health care professional shall be immediately called
9 if there are indications of physical injury or illness, or the
10 child shall be taken to the nearest available hospital for
11 emergency care.

12 (7) Except as otherwise provided herein, nothing in
13 this section shall be deemed to eliminate the right of a
14 parent, legal custodian, or the child to consent to
15 examination or treatment for the child.

16 (8) Except as otherwise provided herein, nothing in
17 this section shall be deemed to alter the provisions of s.
18 743.064.

19 (9) A court shall not be precluded from ordering
20 services or treatment to be provided to the child by a duly
21 accredited practitioner who relies solely on spiritual means
22 for healing in accordance with the tenets and practices of a
23 church or religious organization, when required by the child's
24 health and when requested by the child.

25 (10) Nothing in this section shall be construed to
26 authorize the permanent sterilization of the child unless such
27 sterilization is the result of or incidental to medically
28 necessary treatment to protect or preserve the life of the
29 child.

30 (11) For the purpose of obtaining an evaluation or
31 examination, or receiving treatment as authorized pursuant to

1 | this section, no child alleged to be or found to be dependent
2 | shall be placed in a detention home or other program used
3 | primarily for the care and custody of children alleged or
4 | found to have committed delinquent acts.

5 | (12) The parents or legal custodian of a child in an
6 | out-of-home placement remain financially responsible for the
7 | cost of medical treatment provided to the child even if either
8 | one or both of the parents or if the legal custodian did not
9 | consent to the medical treatment. After a hearing, the court
10 | may order the parents or legal custodian, if found able to do
11 | so, to reimburse the department or other provider of medical
12 | services for treatment provided.

13 | (13) Nothing in this section alters the authority of
14 | the department to consent to medical treatment for a dependent
15 | child when the child has been committed to the department and
16 | the department has become the legal custodian of the child.

17 | (14) At any time after the filing of a shelter
18 | petition or petition for dependency, when the mental or
19 | physical condition, including the blood group, of a parent,
20 | caregiver, legal custodian, or other person requesting custody
21 | of a child is in controversy, the court may order the person
22 | to submit to a physical or mental examination by a qualified
23 | professional. The order may be made only upon good cause shown
24 | and pursuant to notice and procedures as set forth by the
25 | Florida Rules of Juvenile Procedure.

26 | (15) At any time after a shelter petition or petition
27 | for dependency is filed, if the mental or physical condition
28 | of a child or the child's parent, caregiver, legal custodian,
29 | or other person requesting custody of the child is in
30 | controversy, the court, if it has not already done so, may
31 | order the person to submit to a substance abuse assessment and

1 evaluation. The assessment or evaluation must be administered
2 by a qualified professional, as defined in s. 397.311. The
3 order may be made only upon good cause shown and pursuant to
4 the notice and procedures set forth in the Florida Rules of
5 Juvenile Procedure.

6 Section 4. Subsection (9) is added to section 39.507,
7 Florida Statutes, to read:

8 39.507 Adjudicatory hearings; orders of
9 adjudication.--

10 (9) If the mental or physical condition of a child or
11 the child's parent, caregiver, legal custodian, or other
12 person requesting custody of the child is in controversy, the
13 court, if it has not already done so, may require the person
14 to submit to a substance abuse assessment or evaluation. The
15 assessment or evaluation must be administered by a qualified
16 professional, as defined in s. 397.311. The court may also
17 require such person to participate in and comply with
18 treatment and services identified as necessary, including,
19 when appropriate and available, participation and compliance
20 with a treatment-based drug court program. The court,
21 including the treatment-based drug court program, shall
22 oversee the progress and compliance with treatment by the
23 child or the child's parent, legal custodian, caregiver, or
24 other person requesting custody of the child, and shall impose
25 appropriate available sanctions for noncompliance upon the
26 child's parent, legal custodian, caregiver, or other person
27 requesting custody of the child. Any order entered under this
28 subsection may be made only upon good cause shown and pursuant
29 to the notice and procedures set forth in the Florida Rules of
30 Juvenile Procedure.

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1 Section 5. Paragraph (b) of subsection (1) of section
2 39.521, Florida Statutes, is amended to read:

3 39.521 Disposition hearings; powers of disposition.--

4 (1) A disposition hearing shall be conducted by the
5 court, if the court finds that the facts alleged in the
6 petition for dependency were proven in the adjudicatory
7 hearing, or if the parents or legal custodians have consented
8 to the finding of dependency or admitted the allegations in
9 the petition, have failed to appear for the arraignment
10 hearing after proper notice, or have not been located despite
11 a diligent search having been conducted.

12 (b) When any child is adjudicated by a court to be
13 dependent, the court having jurisdiction of the child has the
14 power by order to:

15 1. Require, if the court has not already done so, a
16 child or the child's parent, caregiver, legal custodian, or
17 other person requesting custody of the child to submit to a
18 substance abuse assessment or evaluation when such person's
19 mental or physical condition is in controversy. The assessment
20 or evaluation must be administered by a qualified
21 professional, as defined in s. 397.311. The court may also
22 require such person to participate in treatment and services
23 identified as necessary, including participation and
24 compliance with a treatment-based drug court program, when
25 appropriate and if available. The court, including the
26 treatment-based drug court program, shall oversee the progress
27 and compliance with treatment by the child or the child's
28 parent, legal custodian, caregiver, or other person requesting
29 custody of the child, and shall impose appropriate available
30 sanctions for noncompliance upon the child's parent, legal
31 custodian, caregiver, or other person requesting custody of

1 the child. Any order entered under this paragraph may be made
2 only upon good cause shown and pursuant to the notice and
3 procedures set forth in the Florida Rules of Juvenile
4 Procedure.~~the parent and, when appropriate, the legal~~
5 ~~custodian and the child, to participate in treatment and~~
6 ~~services identified as necessary.~~

7 2. Require, if the court deems necessary, the parties
8 to participate in dependency mediation.

9 3. Require placement of the child either under the
10 protective supervision of an authorized agent of the
11 department in the home of one or both of the child's parents
12 or in the home of a relative of the child or another adult
13 approved by the court, or in the custody of the department.
14 Protective supervision continues until the court terminates it
15 or until the child reaches the age of 18, whichever date is
16 first. Protective supervision shall be terminated by the court
17 whenever the court determines that permanency has been
18 achieved for the child, whether with a parent, another
19 relative, or a legal custodian, and that protective
20 supervision is no longer needed. The termination of
21 supervision may be with or without retaining jurisdiction, at
22 the court's discretion, and shall in either case be considered
23 a permanency option for the child. The order terminating
24 supervision by the department shall set forth the powers of
25 the custodian of the child and shall include the powers
26 ordinarily granted to a guardian of the person of a minor
27 unless otherwise specified. Upon the court's termination of
28 supervision by the department, no further judicial reviews are
29 required, so long as permanency has been established for the
30 child.

31

1 Section 6. Paragraph (d) of subsection (8) of section
2 39.701, Florida Statutes, is amended to read:

3 39.701 Judicial review.--

4 (8)

5 (d) The court may extend the time limitation of the
6 case plan, or may modify the terms of the plan, which, in
7 addition to other modifications, may include a requirement
8 that the parent, foster parent, or legal custodian participate
9 in a treatment-based drug court program, based upon
10 information provided by the social service agency, and the
11 guardian ad litem, if one has been appointed, the parent or
12 parents, and the foster parents or legal custodian, and any
13 other competent information on record demonstrating the need
14 for the amendment. If the court extends the time limitation of
15 the case plan, the court must make specific findings
16 concerning the frequency of past parent-child visitation, if
17 any, and the court may authorize the expansion or restriction
18 of future visitation. Modifications to the plan must be
19 handled as prescribed in s. 39.601. Any extension of a case
20 plan must comply with the time requirements and other
21 requirements specified by this chapter.

22 Section 7. Section 397.334, Florida Statutes, is
23 amended to read:

24 397.334 Treatment-based drug court programs.--

25 (1) It is the intent of the Legislature to implement
26 treatment-based drug court programs in each judicial circuit
27 in an effort to reduce crime and recidivism, abuse and neglect
28 cases, and family dysfunction by breaking the cycle of
29 addiction, which is the most predominant cause of cases
30 entering the justice system. The Legislature recognizes that
31 the integration of judicial supervision, treatment,

1 accountability, ~~and~~ sanctions, and community support greatly
2 increases the effectiveness of substance abuse
3 treatment. The Legislature also seeks to ensure that there is
4 a coordinated, integrated, and multidisciplinary response to
5 the substance abuse problem in this state, with special
6 attention given to the creation of ~~creating~~ partnerships among
7 ~~between~~ the public, community, and private sectors and to the
8 coordinated, supported, and integrated delivery of
9 multiple-system services for substance abusers, including a
10 ~~multiagency~~ team approach to service delivery and aftercare
11 services.

12 (2) Each judicial circuit shall establish a model of a
13 treatment-based drug court program under which persons in the
14 justice system assessed with a substance abuse problem will be
15 processed in such a manner as to appropriately address the
16 severity of the identified substance abuse problem through
17 treatment services plans tailored to the individual needs of
18 the participant. These treatment-based drug court program
19 models may be established in the misdemeanor, felony, family,
20 delinquency, and dependency divisions of the judicial
21 circuits. It is the intent of the Legislature to encourage
22 the Department of Corrections, the Department of Children and
23 Family Services, the Department of Juvenile Justice, the
24 Department of Health, the Department of Law Enforcement, the
25 Department of Education, and other such ~~other~~ agencies, local
26 governments, law enforcement agencies, ~~and~~ other interested
27 public or private sources, and individuals to support the
28 creation and establishment of these problem-solving court
29 programs. Participation in the treatment-based drug court
30 programs does not divest any public or private agency of its
31 responsibility for a child or adult, but enables ~~allows~~ these

1 agencies to better meet their needs through shared
2 responsibility and resources.

3 (3) The treatment-based drug court programs shall
4 include therapeutic jurisprudence and restorative justice
5 principles and adhere to the following 10 key components,
6 recognized by the Drug Courts Program Office of the Office of
7 Justice Programs of the United States Department of Justice
8 and adopted by the Florida Supreme Court Treatment-Based Drug
9 Court Steering Committee:

10 (a) Drug court programs integrate alcohol and other
11 drug treatment services with justice system case processing.

12 (b) Using a nonadversarial approach, prosecution and
13 defense counsel promote public safety while protecting
14 participants' due process rights.

15 (c) Eligible participants are identified early and
16 promptly placed in the drug court program.

17 (d) Drug court programs provide access to a continuum
18 of alcohol, drug, and other related treatment and
19 rehabilitation services.

20 (e) Abstinence is monitored by frequent testing for
21 alcohol and other drugs.

22 (f) A coordinated strategy governs drug court program
23 responses to participants' compliance.

24 (g) Ongoing judicial interaction with each drug court
25 program participant is essential.

26 (h) Monitoring and evaluation measure the achievement
27 of program goals and gauge program effectiveness.

28 (i) Continuing interdisciplinary education promotes
29 effective drug court program planning, implementation, and
30 operations.

31

1 (j) Forging partnerships among drug court programs,
2 public agencies, and community-based organizations generates
3 local support and enhances drug court program effectiveness.

4 (4) Treatment-based drug court programs may include
5 pretrial intervention programs as provided in ss. 948.08,
6 948.16, and 985.306, postadjudicatory programs, and the
7 monitoring of sentenced offenders through a treatment-based
8 drug court program. Supervision may also be provided for
9 offenders who transfer from jail or a prison-based treatment
10 program into the community.

11 (5) Contingent upon an annual appropriation by the
12 Legislature, each judicial circuit shall establish, at a
13 minimum, one coordinator position for the treatment-based drug
14 court program within the state courts system to coordinate the
15 responsibilities of the participating agencies and service
16 providers. Each coordinator shall provide direct support to
17 the treatment-based drug court program by providing
18 coordination between the multidisciplinary team and the
19 judiciary, providing case management, monitoring compliance of
20 the participants in the treatment-based drug court program
21 with court requirements, and providing program evaluation and
22 accountability.

23 ~~(6)~~⁽⁵⁾(a) The Florida Association of Drug Court
24 Program Professionals is created. The membership of the
25 association may consist of treatment-based drug court program
26 practitioners who comprise the multidisciplinary
27 treatment-based drug court program team, including, but not
28 limited to, judges, state attorneys, defense counsel, ~~drug~~
29 ~~court~~ program coordinators, probation officers, law
30 enforcement officers, community representatives, members of
31

1 the academic community, and treatment professionals.

2 Membership in the association shall be voluntary.

3 (b) The association shall annually elect a chair whose
4 duty is to solicit recommendations from members on issues
5 relating to the expansion, operation, and institutionalization
6 of treatment-based drug court programs. The chair is
7 responsible for providing the association's recommendations
8 together with a report each year, on or before October 1, to
9 the appropriate Supreme Court committee or personnel of the
10 Office of the State Courts Administrator ~~Supreme Court~~
11 ~~Treatment-Based Drug Court Steering Committee, and shall~~
12 ~~submit a report each year, on or before October 1, to the~~
13 ~~steering committee.~~

14 (7) The chief judge of each judicial circuit may
15 appoint an advisory committee for the treatment-based drug
16 court program. The committee shall be composed of the chief
17 judge or his or her designee, who shall serve as chair; the
18 judge of the treatment-based drug court program, if not
19 otherwise designated by the chief judge as his or her
20 designee; the state attorney, or his or her designee; the
21 public defender, or his or her designee; the treatment-based
22 drug court program coordinators; community representatives;
23 and any other persons the chair finds to be appropriate.

24 Section 8. Subsection (5) of section 910.035, Florida
25 Statutes, is amended to read:

26 910.035 Transfer from county for plea and sentence.--

27 (5) Any person eligible for participation in a drug
28 court treatment program pursuant to s. 948.08(6) may be
29 eligible to have the case transferred to a county other than
30 that in which the charge arose if the drug court program
31 agrees and if the following conditions are met:

1 (a) The authorized representative of the drug court
2 program of the county requesting to transfer the case shall
3 consult with the authorized representative of the drug court
4 program in the county to which transfer is desired.

5 (b) If approval for transfer is received from all
6 parties, the trial court shall accept a plea of nolo
7 contendere and enter a transfer order directing the clerk to
8 transfer the case to the county which has accepted the
9 defendant into its drug court program.

10 (c) The transfer order shall include a copy of the
11 probable cause affidavit; any charging documents in the case;
12 all reports, witness statements, test results, evidence lists,
13 and other documents in the case; the defendant's mailing
14 address and phone number; and the defendant's written consent
15 to abide by the rules and procedures of the receiving county's
16 drug court program.

17 (d) After the transfer takes place, the clerk shall
18 set the matter for a hearing before the drug court program
19 judge and the court shall ensure the defendant's entry into
20 the drug court program.

21 (e) Upon successful completion of the drug court
22 program, the jurisdiction to which the case has been
23 transferred shall dispose of the case pursuant to s.
24 948.08(6). If the defendant does not complete the drug court
25 program successfully, the jurisdiction to which the case has
26 been transferred shall dispose of the case within the
27 guidelines of the Criminal Punishment Code ~~case shall be~~
28 ~~prosecuted as determined by the state attorneys of the sending~~
29 ~~and receiving counties.~~

30 Section 9. Subsections (6), (7), and (8) of section
31 948.08, Florida Statutes, are amended to read:

1 948.08 Pretrial intervention program.--

2 (6)(a) Notwithstanding any provision of this section,
3 a person who is charged with a felony of the second or third
4 degree for purchase or possession of a controlled substance
5 under chapter 893, prostitution, tampering with evidence,
6 solicitation for purchase of a controlled substance, or
7 obtaining a prescription by fraud; who has not been charged
8 with a crime involving violence, including, but not limited
9 to, murder, sexual battery, robbery, carjacking, home-invasion
10 robbery, or any other crime involving violence; and who has
11 not previously been convicted of a felony ~~nor been admitted to~~
12 ~~a felony pretrial program referred to in this section~~ is
13 eligible for admission into a pretrial substance abuse
14 education and treatment intervention program approved by the
15 chief judge of the circuit, for a period of not less than 1
16 year in duration, upon motion of either party or the court's
17 own motion, except:

18 ~~1. If a defendant was previously offered admission to~~
19 ~~a pretrial substance abuse education and treatment~~
20 ~~intervention program at any time prior to trial and the~~
21 ~~defendant rejected that offer on the record, then the court or~~
22 ~~the state attorney may deny the defendant's admission to such~~
23 ~~a program.~~

24 1.2. If the state attorney believes that the facts and
25 circumstances of the case suggest the defendant's involvement
26 in the dealing and selling of controlled substances, the court
27 shall hold a preadmission hearing. If the state attorney
28 establishes, by a preponderance of the evidence at such
29 hearing, that the defendant was involved in the dealing or
30 selling of controlled substances, the court shall deny the
31 defendant's admission into a pretrial intervention program.

1 2. A defendant assessed with a substance abuse problem
2 who is charged for the first time with a nonviolent
3 third-degree felony and a defendant assessed with a substance
4 abuse problem who has previously been convicted of a
5 nonviolent third-degree felony who is charged with a second or
6 subsequent nonviolent third-degree felony may, with the
7 approval of the state attorney, be referred to the program
8 outlined in this subsection. Upon successful completion of the
9 program, the defendant is entitled to dismissal of the pending
10 charge involving a nonviolent third-degree felony.

11 (b) At the end of the pretrial intervention period,
12 the court shall consider the recommendation of the
13 administrator pursuant to subsection (5) and the
14 recommendation of the state attorney as to disposition of the
15 pending charges. The court shall determine, by written
16 finding, whether the defendant has successfully completed the
17 pretrial intervention program.

18 (c)1. If the court finds that the defendant has not
19 successfully completed the pretrial intervention program, the
20 court may order the person to continue in education and
21 treatment or order that the charges revert to normal channels
22 for prosecution.

23 2. The court shall dismiss the charges upon a finding
24 that the defendant has successfully completed the pretrial
25 intervention program.

26 (d) Any entity, whether public or private, providing a
27 pretrial substance abuse education and treatment intervention
28 program under this subsection must contract with the county or
29 appropriate governmental entity, and the terms of the contract
30 must include, but need not be limited to, the requirements
31 established for private entities under s. 948.15(3).

1 ~~(7) The chief judge in each circuit may appoint an~~
2 ~~advisory committee for the pretrial intervention program~~
3 ~~composed of the chief judge or his or her designee, who shall~~
4 ~~serve as chair; the state attorney, the public defender, and~~
5 ~~the program administrator, or their designees; and such other~~
6 ~~persons as the chair deems appropriate. The advisory committee~~
7 ~~may not designate any defendant eligible for a pretrial~~
8 ~~intervention program for any offense that is not listed under~~
9 ~~paragraph (6)(a) without the state attorney's recommendation~~
10 ~~and approval. The committee may also include persons~~
11 ~~representing any other agencies to which persons released to~~
12 ~~the pretrial intervention program may be referred.~~

13 ~~(7)(8)~~ The department may contract for the services
14 and facilities necessary to operate pretrial intervention
15 programs.

16 Section 10. Section 985.306, Florida Statutes, is
17 amended to read:

18 985.306 Delinquency pretrial intervention program.--

19 ~~(1)(a)~~ Notwithstanding any provision of law to the
20 contrary, a child who is charged ~~under chapter 893~~ with a
21 misdemeanor; a felony of the second or third degree for
22 purchase or possession of a controlled substance under chapter
23 893; tampering with evidence; solicitation for purchase of a
24 controlled substance; or obtaining a prescription by fraud,
25 and who has not previously been adjudicated for a felony ~~nor~~
26 ~~been admitted to a delinquency pretrial intervention program~~
27 ~~under this section~~, is eligible for admission into a
28 delinquency pretrial substance abuse education and treatment
29 intervention program approved by the chief judge or
30 alternative sanctions coordinator of the circuit to the extent
31 that funded programs are available, for a period based on the

1 program requirements and the treatment services that are
2 suitable for the offender of not less than 1 year in duration,
3 upon motion of either party or the court's own motion, except:

4 .
5 (a) If the state attorney believes that the facts and
6 circumstances of the case suggest the child's involvement in
7 the dealing and selling of controlled substances, the court
8 shall hold a preadmission hearing. If the state attorney
9 establishes by a preponderance of the evidence at such hearing
10 that the child was involved in the dealing and selling of
11 controlled substances, the court shall deny the child's
12 admission into a delinquency pretrial intervention program.

13 (b) A child assessed with a substance abuse problem
14 who is charged for the first time with a nonviolent
15 third-degree felony and a child assessed with a substance
16 abuse problem who has previously been adjudicated guilty of or
17 delinquent for a nonviolent third-degree felony who is charged
18 with a second or subsequent nonviolent third-degree felony
19 may, with the approval of the state attorney, be referred to
20 the program outlined in this subsection. Upon successful
21 completion of the program, the child is entitled to dismissal
22 of the pending charge as provided in paragraph (3)(b).

23 (2)(b) At the end of the delinquency pretrial
24 intervention period, the court shall consider the
25 recommendation of the state attorney and the program
26 administrator as to disposition of the pending charges. The
27 court shall determine, by written finding, whether the child
28 has successfully completed the delinquency pretrial
29 intervention program.

30 (3)(a)(c)1. If the court finds that the child has not
31 successfully completed the delinquency pretrial intervention

1 program, the court may order the child to continue in an
2 education, treatment, or urine monitoring program if resources
3 and funding are available or order that the charges revert to
4 normal channels for prosecution.

5 (b)2. The court may dismiss the charges upon a finding
6 that the child has successfully completed the delinquency
7 pretrial intervention program.

8 (4)(d) Any entity, whether public or private,
9 providing pretrial substance abuse education, treatment
10 intervention, and a urine monitoring program under this
11 section must contract with the county or appropriate
12 governmental entity, and the terms of the contract must
13 include, but need not be limited to, the requirements
14 established for private entities under s. 948.15(3). It is the
15 intent of the Legislature that public or private entities
16 providing substance abuse education and treatment intervention
17 programs involve the active participation of parents, schools,
18 churches, businesses, law enforcement agencies, and the
19 department or its contract providers.

20 ~~(2) The chief judge in each circuit may appoint an~~
21 ~~advisory committee for the delinquency pretrial intervention~~
22 ~~program composed of the chief judge or designee, who shall~~
23 ~~serve as chair; the state attorney, the public defender, and~~
24 ~~the program administrator, or their designees; and such other~~
25 ~~persons as the chair deems appropriate. The committee may~~
26 ~~also include persons representing any other agencies to which~~
27 ~~children released to the delinquency pretrial intervention~~
28 ~~program may be referred.~~

29 Section 11. This act shall take effect July 1, 2003.
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