

CHAMBER ACTION

1 The Justice Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to drug court programs; providing a short
7 title; amending s. 39.001, F.S.; providing additional
8 legislative purposes and intent with respect to the
9 treatment of substance abuse, including the use of the
10 drug court program model; authorizing the court to require
11 certain persons to undergo treatment following
12 adjudication; amending s. 39.407, F.S.; authorizing the
13 court to order specified persons to submit to a substance
14 abuse assessment or evaluation upon a showing of good
15 cause in connection with a shelter petition or petition
16 for dependency; amending ss. 39.507 and 39.521, F.S.;
17 authorizing the court to order specified persons to submit
18 to a substance abuse assessment as part of an adjudicatory
19 order or pursuant to a disposition hearing; requiring a
20 showing of good cause; authorizing the court to require
21 participation in a treatment-based drug court program;
22 authorizing the court to impose sanctions for
23 noncompliance; amending s. 397.334, F.S.; revising

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24 legislative intent with respect to treatment-based drug
25 court programs to reflect participation by community
26 support agencies, the Department of Education, and other
27 individuals; including postadjudicatory programs as part
28 of treatment-based drug court programs; providing
29 requirements and sanctions, including treatment by
30 specified licensed service providers, jail-based
31 treatment, secure detention, or incarceration, for the
32 coordinated strategy developed by the drug court team to
33 encourage participant compliance; requiring each judicial
34 circuit to establish a position for a coordinator of the
35 treatment-based drug court program, subject to annual
36 appropriation by the Legislature; authorizing the chief
37 judge of each judicial circuit to appoint an advisory
38 committee for the treatment-based drug court program;
39 providing for membership of the committee; revising
40 language with respect to an annual report; amending s.
41 910.035, F.S.; revising language with respect to
42 conditions for the transfer of a case in the drug court
43 treatment program to a county other than that in which the
44 charge arose; amending ss. 948.08, 948.16, and 985.306,
45 F.S., relating to felony, misdemeanor, and delinquency
46 pretrial substance abuse education and treatment
47 intervention programs; providing for application of the
48 coordinated strategy developed by the drug court team;
49 providing for expungement of certain records and pleas;
50 removing provisions authorizing appointment of an advisory

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51 | committee, to conform to changes made by the act;
52 | providing an effective date.

53 |
54 | Be It Enacted by the Legislature of the State of Florida:

55 |
56 | Section 1. This act may be cited as the "Robert J. Koch
57 | Drug Court Intervention Act."

58 | Section 2. Subsection (4) of section 39.001, Florida
59 | Statutes, is amended to read:

60 | 39.001 Purposes and intent; personnel standards and
61 | screening.--

62 | (4) SUBSTANCE ABUSE SERVICES.--

63 | (a) The Legislature recognizes that early referral and
64 | comprehensive treatment can help combat substance abuse in
65 | families and that treatment is cost effective.

66 | (b) The Legislature establishes the following goals for
67 | the state related to substance abuse treatment services in the
68 | dependency process:

69 | 1. To ensure the safety of children.

70 | 2. To prevent and remediate the consequences of substance
71 | abuse on families involved in protective supervision or foster
72 | care and reduce substance abuse, including alcohol abuse, for
73 | families who are at risk of being involved in protective
74 | supervision or foster care.

75 | 3. To expedite permanency for children and reunify
76 | healthy, intact families, when appropriate.

77 | 4. To support families in recovery.

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78 (c) The Legislature finds that children in the care of the
79 state's dependency system need appropriate health care services,
80 that the impact of substance abuse on health indicates the need
81 for health care services to include substance abuse services to
82 children and parents where appropriate, and that it is in the
83 state's best interest that such children be provided the
84 services they need to enable them to become and remain
85 independent of state care. In order to provide these services,
86 the state's dependency system must have the ability to identify
87 and provide appropriate intervention and treatment for children
88 with personal or family-related substance abuse problems.

89 (d) It is the intent of the Legislature to encourage the
90 use of the drug court program model established by s. 397.334
91 and authorize courts to assess children and persons who have
92 custody or are requesting custody of children where good cause
93 is shown to identify and address substance abuse problems as the
94 court deems appropriate at every stage of the dependency
95 process. Participation in treatment, including a treatment-based
96 drug court program, may be required by the court following
97 adjudication. Participation in assessment and treatment prior to
98 adjudication shall be voluntary, except as provided in s.
99 39.407(16).

100 (e) It is therefore the purpose of the Legislature to
101 provide authority for the state to contract with community
102 substance abuse treatment providers for the development and
103 operation of specialized support and overlay services for the
104 dependency system, which will be fully implemented and used
105 utilized as resources permit.

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106 (f) Participation in the treatment-based drug court
107 program does not divest any public or private agency of its
108 responsibility for a child or adult, but is intended to enable
109 these agencies to better meet their needs through shared
110 responsibility and resources.

111 Section 3. Subsection (15) of section 39.407, Florida
112 Statutes, is amended, and subsection (16) is added to that
113 section, to read:

114 39.407 Medical, psychiatric, and psychological examination
115 and treatment of child; physical, ~~or~~ mental, or substance abuse
116 examination of ~~parent or~~ person with or requesting child custody
117 of ~~child~~.--

118 (15) At any time after the filing of a shelter petition or
119 petition for dependency, when the mental or physical condition,
120 including the blood group, of a parent, caregiver, legal
121 custodian, or other person who has custody or is requesting
122 custody of a child is in controversy, the court may order the
123 person to submit to a physical or mental examination by a
124 qualified professional. The order may be made only upon good
125 cause shown and pursuant to notice and procedures as set forth
126 by the Florida Rules of Juvenile Procedure.

127 (16) At any time after a shelter petition or petition for
128 dependency is filed, the court may order a person who has
129 custody or is requesting custody of the child to submit to a
130 substance abuse assessment or evaluation. The assessment or
131 evaluation must be administered by a qualified professional, as
132 defined in s. 397.311. The order may be made only upon good
133 cause shown. This subsection does not authorize placement of a

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134 child with a person seeking custody, other than the parent or
135 legal custodian, who requires substance abuse treatment.

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

138 39.507 Adjudicatory hearings; orders of adjudication.--

139 (9) After an adjudication of dependency, or a finding of
140 dependency where adjudication is withheld, the court may order a
141 person who has custody or is requesting custody of the child to
142 submit to a substance abuse assessment or evaluation. The
143 assessment or evaluation must be administered by a qualified
144 professional, as defined in s. 397.311. The court may also
145 require such person to participate in and comply with treatment
146 and services identified as necessary, including, when
147 appropriate and available, participation in and compliance with
148 a treatment-based drug court program established under s.
149 397.334. In addition to supervision by the department, the
150 court, including the treatment-based drug court program, may
151 oversee the progress and compliance with treatment by a person
152 who has custody or is requesting custody of the child. The court
153 may impose appropriate available sanctions for noncompliance
154 upon a person who has custody or is requesting custody of the
155 child or make a finding of noncompliance for consideration in
156 determining whether an alternative placement of the child is in
157 the child's best interests. Any order entered under this
158 subsection may be made only upon good cause shown. This
159 subsection does not authorize placement of a child with a person
160 seeking custody, other than the parent or legal custodian, who
161 requires substance abuse treatment.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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162 Section 5. Paragraph (b) of subsection (1) of section
163 39.521, Florida Statutes, is amended to read:

164 39.521 Disposition hearings; powers of disposition.--

165 (1) A disposition hearing shall be conducted by the court,
166 if the court finds that the facts alleged in the petition for
167 dependency were proven in the adjudicatory hearing, or if the
168 parents or legal custodians have consented to the finding of
169 dependency or admitted the allegations in the petition, have
170 failed to appear for the arraignment hearing after proper
171 notice, or have not been located despite a diligent search
172 having been conducted.

173 (b) When any child is adjudicated by a court to be
174 dependent, the court having jurisdiction of the child has the
175 power by order to:

176 1. Require the parent and, when appropriate, the legal
177 custodian and the child, to participate in treatment and
178 services identified as necessary. The court may require the
179 person who has custody or who is requesting custody of the child
180 to submit to a substance abuse assessment or evaluation. The
181 assessment or evaluation must be administered by a qualified
182 professional, as defined in s. 397.311. The court may also
183 require such person to participate in and comply with treatment
184 and services identified as necessary, including, when
185 appropriate and available, participation in and compliance with
186 a treatment-based drug court program established under s.
187 397.334. In addition to supervision by the department, the
188 court, including the treatment-based drug court program, may
189 oversee the progress and compliance with treatment by a person

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190 who has custody or is requesting custody of the child. The court
191 may impose appropriate available sanctions for noncompliance
192 upon a person who has custody or is requesting custody of the
193 child or make a finding of noncompliance for consideration in
194 determining whether an alternative placement of the child is in
195 the child's best interests. Any order entered under this
196 subparagraph may be made only upon good cause shown. This
197 subparagraph does not authorize placement of a child with a
198 person seeking custody of the child, other than the child's
199 parent or legal custodian, who requires substance abuse
200 treatment.

201 2. Require, if the court deems necessary, the parties to
202 participate in dependency mediation.

203 3. Require placement of the child either under the
204 protective supervision of an authorized agent of the department
205 in the home of one or both of the child's parents or in the home
206 of a relative of the child or another adult approved by the
207 court, or in the custody of the department. Protective
208 supervision continues until the court terminates it or until the
209 child reaches the age of 18, whichever date is first. Protective
210 supervision shall be terminated by the court whenever the court
211 determines that permanency has been achieved for the child,
212 whether with a parent, another relative, or a legal custodian,
213 and that protective supervision is no longer needed. The
214 termination of supervision may be with or without retaining
215 jurisdiction, at the court's discretion, and shall in either
216 case be considered a permanency option for the child. The order
217 terminating supervision by the department shall set forth the

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218 powers of the custodian of the child and shall include the
219 powers ordinarily granted to a guardian of the person of a minor
220 unless otherwise specified. Upon the court's termination of
221 supervision by the department, no further judicial reviews are
222 required, so long as permanency has been established for the
223 child.

224 Section 6. Section 397.334, Florida Statutes, is amended
225 to read:

226 397.334 Treatment-based drug court programs.--

227 (1) Each county may fund a treatment-based drug court
228 program under which persons in the justice system assessed with
229 a substance abuse problem will be processed in such a manner as
230 to appropriately address the severity of the identified
231 substance abuse problem through treatment services ~~plans~~
232 tailored to the individual needs of the participant. It is the
233 intent of the Legislature to encourage the Department of
234 Corrections, the Department of Children and Family Services, the
235 Department of Juvenile Justice, the Department of Health, the
236 Department of Law Enforcement, the Department of Education, and
237 such ~~other~~ agencies, local governments, law enforcement
238 agencies, ~~and~~ other interested public or private sources, and
239 individuals to support the creation and establishment of these
240 problem-solving court programs. Participation in the treatment-
241 based drug court programs does not divest any public or private
242 agency of its responsibility for a child or adult, but enables
243 ~~allows~~ these agencies to better meet their needs through shared
244 responsibility and resources.

245 (2) Entry into any pretrial treatment-based drug court
246 program shall be voluntary. When neither s. 948.08(6)(a)1. nor
247 s. 948.08(6)(a)2. applies, the court may order an individual to
248 enter into a pretrial treatment-based drug court program only
249 upon written agreement by the individual, which shall include a
250 statement that the individual understands the requirements of
251 the program and the potential sanctions for noncompliance.

252 (3)~~(2)~~ The treatment-based drug court programs shall
253 include therapeutic jurisprudence principles and adhere to the
254 following 10 key components, recognized by the Drug Courts
255 Program Office of the Office of Justice Programs of the United
256 States Department of Justice and adopted by the Florida Supreme
257 Court Treatment-Based Drug Court Steering Committee:

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

260 (b) Using a nonadversarial approach, prosecution and
261 defense counsel promote public safety while protecting
262 participants' due process rights.

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

265 (d) Drug court programs provide access to a continuum of
266 alcohol, drug, and other related treatment and rehabilitation
267 services.

268 (e) Abstinence is monitored by frequent testing for
269 alcohol and other drugs.

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

272 (g) Ongoing judicial interaction with each drug court
273 program participant is essential.

274 (h) Monitoring and evaluation measure the achievement of
275 program goals and gauge program effectiveness.

276 (i) Continuing interdisciplinary education promotes
277 effective drug court program planning, implementation, and
278 operations.

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

282 ~~(4)(3)~~ Treatment-based drug court programs may include
283 pretrial intervention programs as provided in ss. 948.08,
284 948.16, and 985.306, treatment-based drug court programs
285 authorized in chapter 39, postadjudicatory programs, and review
286 of the status of compliance or noncompliance of sentenced
287 offenders through a treatment-based drug court program. While
288 enrolled in a treatment-based drug court program, the
289 participant is subject to a coordinated strategy developed by a
290 drug court team under subsection (3). The coordinated strategy
291 may include a protocol of sanctions that may be imposed upon the
292 participant for noncompliance with program rules. The protocol
293 of sanctions may include, but is not limited to, placement in a
294 substance abuse treatment program offered by a licensed service
295 provider as defined in s. 397.311 or in a jail-based treatment
296 program or serving a period of secure detention under chapter
297 985 if a child or a period of incarceration within the time
298 limits established for contempt of court if an adult. The
299 coordinated strategy must be provided in writing to the

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300 participant before the participant agrees to enter into a
301 treatment-based drug court program.

302 (5) Contingent upon an annual appropriation by the
303 Legislature, each judicial circuit shall establish, at a
304 minimum, one coordinator position for the treatment-based drug
305 court program within the state courts system to coordinate the
306 responsibilities of the participating agencies and service
307 providers. Each coordinator shall provide direct support to the
308 treatment-based drug court program by providing coordination
309 between the multidisciplinary team and the judiciary, providing
310 case management, monitoring compliance of the participants in
311 the treatment-based drug court program with court requirements,
312 and providing program evaluation and accountability.

313 (6)~~(4)~~ (a) The Florida Association of Drug Court ~~Program~~
314 Professionals is created. The membership of the association may
315 consist of treatment-based drug court program practitioners who
316 comprise the multidisciplinary treatment-based drug court
317 program team, including, but not limited to, judges, state
318 attorneys, defense counsel, treatment-based drug court program
319 coordinators, probation officers, law enforcement officers,
320 community representatives, members of the academic community,
321 and treatment professionals. Membership in the association shall
322 be voluntary.

323 (b) The association shall annually elect a chair whose
324 duty is to solicit recommendations from members on issues
325 relating to the expansion, operation, and institutionalization
326 of treatment-based drug court programs. The chair is responsible
327 for providing on or before October 1 of each year the

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328 | association's recommendations and an annual report to the
329 | appropriate Supreme Court ~~Treatment Based Drug Court Steering~~
330 | committee or to the appropriate personnel of the Office of the
331 | State Courts Administrator, ~~and shall submit a report each year,~~
332 | ~~on or before October 1, to the steering committee.~~

333 | ~~(7)(5)~~ If a county chooses to fund a treatment-based drug
334 | court program, the county must secure funding from sources other
335 | than the state for those costs not otherwise assumed by the
336 | state pursuant to s. 29.004. However, this does not preclude
337 | counties from using treatment and other service dollars provided
338 | through state executive branch agencies. Counties may provide,
339 | by interlocal agreement, for the collective funding of these
340 | programs.

341 | (8) The chief judge of each judicial circuit may appoint
342 | an advisory committee for the treatment-based drug court
343 | program. The committee shall be composed of the chief judge, or
344 | his or her designee, who shall serve as chair; the judge of the
345 | treatment-based drug court program, if not otherwise designated
346 | by the chief judge as his or her designee; the state attorney,
347 | or his or her designee; the public defender, or his or her
348 | designee; the treatment-based drug court program coordinators;
349 | community representatives; treatment representatives; and any
350 | other persons the chair finds are appropriate.

351 | Section 7. Paragraphs (b) and (e) of subsection (5) of
352 | section 910.035, Florida Statutes, are amended to read:

353 | 910.035 Transfer from county for plea and sentence.--

354 | (5) Any person eligible for participation in a drug court
355 | treatment program pursuant to s. 948.08(6) may be eligible to

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356 have the case transferred to a county other than that in which
357 the charge arose if the drug court program agrees and if the
358 following conditions are met:

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

364 (e) Upon successful completion of the drug court program,
365 the jurisdiction to which the case has been transferred shall
366 dispose of the case pursuant to s. 948.08(6). If the defendant
367 does not complete the drug court program successfully, the
368 jurisdiction to which the case has been transferred shall
369 dispose of the case within the guidelines of the Criminal
370 Punishment Code ~~case shall be prosecuted as determined by the~~
371 ~~state attorneys of the sending and receiving counties.~~

372 Section 8. Subsections (6), (7), and (8) of section
373 948.08, Florida Statutes, are amended to read:

374 948.08 Pretrial intervention program.--

375 (6) (a) Notwithstanding any provision of this section, a
376 person who is charged with a felony of the second or third
377 degree for purchase or possession of a controlled substance
378 under chapter 893, prostitution, tampering with evidence,
379 solicitation for purchase of a controlled substance, or
380 obtaining a prescription by fraud; who has not been charged with
381 a crime involving violence, including, but not limited to,
382 murder, sexual battery, robbery, carjacking, home-invasion
383 robbery, or any other crime involving violence; and who has not

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384 | previously been convicted of a felony nor been admitted to a
385 | felony pretrial program referred to in this section is eligible
386 | for voluntary admission into a pretrial substance abuse
387 | education and treatment intervention program, including a
388 | treatment-based drug court program established pursuant to s.
389 | 397.334, approved by the chief judge of the circuit, for a
390 | period of not less than 1 year in duration, upon motion of
391 | either party or the court's own motion, except:

392 | 1. If a defendant was previously offered admission to a
393 | pretrial substance abuse education and treatment intervention
394 | program at any time prior to trial and the defendant rejected
395 | that offer on the record, then the court or the state attorney
396 | may deny the defendant's admission to such a program.

397 | 2. If the state attorney believes that the facts and
398 | circumstances of the case suggest the defendant's involvement in
399 | the dealing and selling of controlled substances, the court
400 | shall hold a preadmission hearing. If the state attorney
401 | establishes, by a preponderance of the evidence at such hearing,
402 | that the defendant was involved in the dealing or selling of
403 | controlled substances, the court shall deny the defendant's
404 | admission into a pretrial intervention program.

405 | (b) While enrolled in a pretrial intervention program
406 | authorized by this subsection, the participant is subject to a
407 | coordinated strategy developed by a drug court team under s.
408 | 397.334(3). The coordinated strategy may include a protocol of
409 | sanctions that may be imposed upon the participant for
410 | noncompliance with program rules. The protocol of sanctions may
411 | include, but is not limited to, placement in a substance abuse

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412 treatment program offered by a licensed service provider as
413 defined in s. 397.311 or in a jail-based treatment program or
414 serving a period of incarceration within the time limits
415 established for contempt of court. The coordinated strategy must
416 be provided in writing to the participant before the participant
417 agrees to enter into a pretrial treatment-based drug court
418 program or other pretrial intervention program. Any person whose
419 charges are dismissed after successful completion of the
420 treatment-based drug court program, if otherwise eligible, may
421 have his or her arrest record and plea of nolo contendere to the
422 dismissed charges expunged under s. 943.0585.

423 (c) ~~(b)~~ At the end of the pretrial intervention period, the
424 court shall consider the recommendation of the administrator
425 pursuant to subsection (5) and the recommendation of the state
426 attorney as to disposition of the pending charges. The court
427 shall determine, by written finding, whether the defendant has
428 successfully completed the pretrial intervention program.

429 ~~(e)~~1. Notwithstanding the coordinated strategy developed
430 by a drug court team pursuant to s. 397.334(3), if the court
431 finds that the defendant has not successfully completed the
432 pretrial intervention program, the court may order the person to
433 continue in education and treatment, which may include substance
434 abuse treatment programs offered by licensed service providers
435 as defined in s. 397.311 or jail-based treatment programs, or
436 order that the charges revert to normal channels for
437 prosecution.

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438 ~~2-~~ The court shall dismiss the charges upon a finding that
439 the defendant has successfully completed the pretrial
440 intervention program.

441 (d) Any entity, whether public or private, providing a
442 pretrial substance abuse education and treatment intervention
443 program under this subsection must contract with the county or
444 appropriate governmental entity, and the terms of the contract
445 must include, but need not be limited to, the requirements
446 established for private entities under s. 948.15(3).

447 ~~(7) The chief judge in each circuit may appoint an
448 advisory committee for the pretrial intervention program
449 composed of the chief judge or his or her designee, who shall
450 serve as chair; the state attorney, the public defender, and the
451 program administrator, or their designees; and such other
452 persons as the chair deems appropriate. The advisory committee
453 may not designate any defendant eligible for a pretrial
454 intervention program for any offense that is not listed under
455 paragraph (6)(a) without the state attorney's recommendation and
456 approval. The committee may also include persons representing
457 any other agencies to which persons released to the pretrial
458 intervention program may be referred.~~

459 (7)~~(8)~~ The department may contract for the services and
460 facilities necessary to operate pretrial intervention programs.

461 Section 9. Section 948.16, Florida Statutes, is amended to
462 read:

463 948.16 Misdemeanor pretrial substance abuse education and
464 treatment intervention program.--

465 (1) (a) A person who is charged with a misdemeanor for
466 possession of a controlled substance or drug paraphernalia under
467 chapter 893, and who has not previously been convicted of a
468 felony nor been admitted to a pretrial program, is eligible for
469 voluntary admission into a misdemeanor pretrial substance abuse
470 education and treatment intervention program, including a
471 treatment-based drug court program established pursuant to s.
472 397.334, approved by the chief judge of the circuit, for a
473 period based on the program requirements and the treatment plan
474 for the offender, upon motion of either party or the court's own
475 motion, except, if the state attorney believes the facts and
476 circumstances of the case suggest the defendant is involved in
477 dealing and selling controlled substances, the court shall hold
478 a preadmission hearing. If the state attorney establishes, by a
479 preponderance of the evidence at such hearing, that the
480 defendant was involved in dealing or selling controlled
481 substances, the court shall deny the defendant's admission into
482 the pretrial intervention program.

483 (b) While enrolled in a pretrial intervention program
484 authorized by this section, the participant is subject to a
485 coordinated strategy developed by a drug court team under s.
486 397.334(3). The coordinated strategy may include a protocol of
487 sanctions that may be imposed upon the participant for
488 noncompliance with program rules. The protocol of sanctions may
489 include, but is not limited to, placement in a substance abuse
490 treatment program offered by a licensed service provider as
491 defined in s. 397.311 or in a jail-based treatment program or
492 -serving a period of incarceration within the time limits

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493 | established for contempt of court. The coordinated strategy must
494 | be provided in writing to the participant before the participant
495 | agrees to enter into a pretrial treatment-based drug court
496 | program or other pretrial intervention program. Any person whose
497 | charges are dismissed after successful completion of the
498 | treatment-based drug court program, if otherwise eligible, may
499 | have his or her arrest record and plea of nolo contendere to the
500 | dismissed charges expunged under s. 943.0585.

501 | (2) At the end of the pretrial intervention period, the
502 | court shall consider the recommendation of the treatment program
503 | and the recommendation of the state attorney as to disposition
504 | of the pending charges. The court shall determine, by written
505 | finding, whether the defendant successfully completed the
506 | pretrial intervention program.

507 | ~~(a)~~ Notwithstanding the coordinated strategy developed by
508 | a drug court team pursuant to s. 397.334(3), if the court finds
509 | that the defendant has not successfully completed the pretrial
510 | intervention program, the court may order the person to continue
511 | in education and treatment or return the charges to the criminal
512 | docket for prosecution.

513 | ~~(b)~~ The court shall dismiss the charges upon finding that
514 | the defendant has successfully completed the pretrial
515 | intervention program.

516 | (3) Any public or private entity providing a pretrial
517 | substance abuse education and treatment program under this
518 | section shall contract with the county or appropriate
519 | governmental entity. The terms of the contract shall include,

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520 but not be limited to, the requirements established for private
521 entities under s. 948.15(3).

522 Section 10. Section 985.306, Florida Statutes, is amended
523 to read:

524 985.306 Delinquency pretrial intervention program.--

525 (1) ~~(a)~~ Notwithstanding any provision of law to the
526 contrary, a child who is charged ~~under chapter 893~~ with a felony
527 of the second or third degree for purchase or possession of a
528 controlled substance under chapter 893; tampering with evidence;
529 solicitation for purchase of a controlled substance; or
530 obtaining a prescription by fraud, and who has not previously
531 been adjudicated for a felony ~~nor been admitted to a delinquency~~
532 ~~pretrial intervention program under this section,~~ is eligible
533 for voluntary admission into a delinquency pretrial substance
534 abuse education and treatment intervention program, including a
535 treatment-based drug court program established pursuant to s.
536 397.334, approved by the chief judge or alternative sanctions
537 coordinator of the circuit to the extent that funded programs
538 are available, for a period based on the program requirements
539 and the treatment services that are suitable for the offender ~~of~~
540 ~~not less than 1 year in duration,~~ upon motion of either party or
541 the court's own motion. However, if the state attorney believes
542 that the facts and circumstances of the case suggest the child's
543 involvement in the dealing and selling of controlled substances,
544 the court shall hold a preadmission hearing. If the state
545 attorney establishes by a preponderance of the evidence at such
546 hearing that the child was involved in the dealing and selling

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547 of controlled substances, the court shall deny the child's
548 admission into a delinquency pretrial intervention program.

549 (2) While enrolled in a delinquency pretrial intervention
550 program authorized by this section, a child is subject to a
551 coordinated strategy developed by a drug court team under s.
552 397.334(3). The coordinated strategy may include a protocol of
553 sanctions that may be imposed upon the child for noncompliance
554 with program rules. The protocol of sanctions may include, but
555 is not limited to, placement in a substance abuse treatment
556 program offered by a licensed service provider as defined in s.
557 397.311 or serving a period of secure detention under this
558 chapter. The coordinated strategy must be provided in writing to
559 the child before the child agrees to enter the pretrial
560 treatment-based drug court program or other pretrial
561 intervention program. Any child whose charges are dismissed
562 after successful completion of the treatment-based drug court
563 program, if otherwise eligible, may have his or her arrest
564 record and plea of nolo contendere to the dismissed charges
565 expunged under s. 943.0585.

566 (3)-(b) At the end of the delinquency pretrial intervention
567 period, the court shall consider the recommendation of the state
568 attorney and the program administrator as to disposition of the
569 pending charges. The court shall determine, by written finding,
570 whether the child has successfully completed the delinquency
571 pretrial intervention program.

572 (c)1. Notwithstanding the coordinated strategy developed
573 by a drug court team pursuant to s. 397.334(3), if the court
574 finds that the child has not successfully completed the

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575 delinquency pretrial intervention program, the court may order
576 the child to continue in an education, treatment, or urine
577 monitoring program if resources and funding are available or
578 order that the charges revert to normal channels for
579 prosecution.

580 ~~2.~~ The court may dismiss the charges upon a finding that
581 the child has successfully completed the delinquency pretrial
582 intervention program.

583 (4)~~(d)~~ Any entity, whether public or private, providing
584 pretrial substance abuse education, treatment intervention, and
585 a urine monitoring program under this section must contract with
586 the county or appropriate governmental entity, and the terms of
587 the contract must include, but need not be limited to, the
588 requirements established for private entities under s.
589 948.15(3). It is the intent of the Legislature that public or
590 private entities providing substance abuse education and
591 treatment intervention programs involve the active participation
592 of parents, schools, churches, businesses, law enforcement
593 agencies, and the department or its contract providers.

594 ~~(2) The chief judge in each circuit may appoint an~~
595 ~~advisory committee for the delinquency pretrial intervention~~
596 ~~program composed of the chief judge or designee, who shall serve~~
597 ~~as chair; the state attorney, the public defender, and the~~
598 ~~program administrator, or their designees; and such other~~
599 ~~persons as the chair deems appropriate. The committee may also~~
600 ~~include persons representing any other agencies to which~~
601 ~~children released to the delinquency pretrial intervention~~
602 ~~program may be referred.~~

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603 | Section 11. This act shall take effect upon becoming a
604 | law.