



444324

604-03532-09

Proposed Committee Substitute by the Committee on Criminal and  
Civil Justice Appropriations

A bill to be entitled

An act relating to A bill to be entitled

An act relating to postadjudicatory treatment-based  
drug court programs; amending s. 397.334, F.S.;  
specifying criteria that a court must consider before  
sentencing a person to a postadjudicatory treatment-  
based drug court program; providing for the judge  
presiding over a program to hear violations of  
probation or community control by program  
participants; requiring circuit courts to report data  
relating to postadjudicatory treatment-based drug  
court programs to the Office of the State Courts  
Administrator; providing legislative intent with  
respect to monitoring the programs; requiring that the  
Office of Program Policy Analysis and Government  
Accountability evaluate the programs and report to the  
Legislature; amending s. 921.0026, F.S.; specifying  
that substance abuse or addiction is an additional  
circumstance justifying a departure from a sentence if  
the defendant is amenable to a drug court program and  
is otherwise qualified; amending s. 948.01, F.S.;  
authorizing a court to place certain nonviolent felony  
offenders who are on probation or community control  
into a postadjudicatory treatment-based drug court  
program; amending s. 948.06, F.S.; authorizing a court  
to place certain nonviolent felony offenders who  
violate their on probation or community control into a



444324

604-03532-09

28 postadjudicatory treatment-based drug court program  
29 amending s. 948.20, F.S.; authorizing a court to place  
30 certain chronic substance abusers who are a nonviolent  
31 felony offender into a postadjudicatory treatment-  
32 based drug court program; amending ss. 948.08, 948.16,  
33 and 948.345, F.S.; conforming-cross references;  
34 providing an effective date.  
35

36 Be It Enacted by the Legislature of the State of Florida:  
37

38 Section 1. Present subsections (3) through (8) of section  
39 397.334, Florida Statutes, are renumbered as subsections (4)  
40 through (9), respectively, a new subsection (3) is added to that  
41 section, present subsection (5) is amended, and subsection (10)  
42 is added to that section; to read:

43 397.334 Treatment-based drug court programs.—

44 (3) (a) Entry into any postadjudicatory treatment-based drug  
45 court program as a condition of probation or community control,  
46 pursuant to s. 948.01, must be based upon the sentencing court's  
47 assessment of the defendant's criminal history, substance abuse  
48 screening outcome, amenability to the services of the program,  
49 total sentence points, the consent of the state attorney and the  
50 victim, if any, and the defendant's agreement to enter the  
51 program.

52 (b) A probationer who is sentenced to a postadjudicatory  
53 drug court program and who, while a drug court participant, is  
54 the subject of a violation of probation or community control  
55 under s. 948.06, based solely upon a failed or suspect substance  
56 abuse test administered pursuant to s. 948.01 or s. 948.03,



444324

604-03532-09

57 shall have the violation of probation or community control heard  
58 by the judge presiding over the postadjudicatory drug court  
59 program. The judge shall dispose of any such violation, after a  
60 hearing on or admission of the violation, as he or she deems  
61 appropriate if the resulting sentence or conditions are lawful.

62 (6) (a) ~~(5)~~ Contingent upon an annual appropriation by the  
63 Legislature, each judicial circuit shall establish, at a  
64 minimum, one coordinator position for the treatment-based drug  
65 court program within the state courts system to coordinate the  
66 responsibilities of the participating agencies and service  
67 providers. Each coordinator shall provide direct support to the  
68 treatment-based drug court program by providing coordination  
69 between the multidisciplinary team and the judiciary, providing  
70 case management, monitoring compliance of the participants in  
71 the treatment-based drug court program with court requirements,  
72 and providing program evaluation and accountability.

73 (b) Each circuit shall report sufficient client-level and  
74 programmatic data to the Office of State Courts Administrator  
75 annually for purposes of program evaluation. Client-level data  
76 includes primary offenses that resulted in drug court referral  
77 or sentence, treatment compliance, completion status and reasons  
78 for failure to complete, offenses committed during treatment and  
79 sanctions imposed, frequency of court appearances, and units of  
80 service. Programmatic data includes referral and screening  
81 procedures, eligibility criteria, type and duration of treatment  
82 offered, and residential treatment resources.

83 (10) The Legislature intends to monitor and evaluate the  
84 implementation and effectiveness of postadjudicatory treatment-  
85 based drug court programs, particularly as they identify and



444324

604-03532-09

86 serve offenders pursuant to ss. 948.01(7) and 948.06(2)(i). The  
87 Office of Program Policy Analysis and Government Accountability  
88 shall evaluate the effectiveness of postadjudicatory treatment-  
89 based drug court programs and issue a report of its findings and  
90 recommendations to the Legislature by October 1, 2010.

91 Section 2. Paragraph (m) is added to subsection (2) of  
92 section 921.0026, Florida Statutes, to read:

93 921.0026 Mitigating circumstances.—This section applies to  
94 any felony offense, except any capital felony, committed on or  
95 after October 1, 1998.

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

99 (m) The defendant's substance abuse or addiction, if the  
100 offense is a nonviolent felony and the court determines that the  
101 defendant is amenable to the services of a postadjudicatory  
102 treatment-based drug court program and is otherwise qualified to  
103 participate in the program as part of the sentence. As used in  
104 this paragraph, the term "nonviolent felony" means a third-  
105 degree felony violation under chapter 810 or any other felony  
106 offense that is not a forcible felony as defined in s. 776.08.

107 Section 3. Subsection (7) is added to section 948.01,  
108 Florida Statutes, to read:

109 948.01 When court may place defendant on probation or into  
110 community control.—

111 (7) (a) The sentencing court may place the defendant into a  
112 postadjudicatory treatment-based drug court program if the total  
113 sentence points under s. 921.0024 are 60 points or fewer and the  
114 defendant is a nonviolent felony offender, amenable to substance



444324

604-03532-09

115 abuse treatment, and otherwise qualifies under s. 397.334(3).  
116 The satisfactory completion of the program shall be a condition  
117 of the defendant's probation or community control. As used in  
118 this subsection, the term "nonviolent felony" means a third-  
119 degree felony violation under chapter 810 or any other felony  
120 offense that is not a forcible felony as defined in s. 776.08.

121 (b) The defendant must be fully advised of the purpose of  
122 the program and the defendant must agree to enter the program.  
123 The original sentencing court shall relinquish jurisdiction of  
124 the defendant's case to the postadjudicatory drug court program  
125 until the defendant is no longer active in the program, the case  
126 is returned to the sentencing court due to the defendant's  
127 termination from the program, or the defendant's sentence is  
128 completed.

129 Section 4. Paragraph (i) is added to subsection (2) of  
130 section 948.06, Florida Statutes, to read:

131 948.06 Violation of probation or community control;  
132 revocation; modification; continuance; failure to pay  
133 restitution or cost of supervision.-

134 (2)

135 (i)1. The court may order the offender to successfully  
136 complete a postadjudicatory treatment-based drug court program  
137 if:

138 a. The court finds or the offender admits that the offender  
139 has violated his or her community control or probation and the  
140 violation was due only to a failed or suspect substance abuse  
141 test;

142 b. The offender's Criminal Punishment Code scoresheet total  
143 is 60 points or fewer after including points for the violation;



444324

604-03532-09

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

148 d. The court determines that the offender is amenable to  
149 the services of a postadjudicatory treatment-based drug court  
150 program;

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

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

155 2. After the court orders the modification of community  
156 control or probation, the original sentencing court shall  
157 relinquish jurisdiction of the offender's case to the  
158 postadjudicatory treatment-based drug court program until the  
159 offender remains active in the program, the case is returned to  
160 the sentencing court due to the offender's termination from the  
161 program, or the offender's sentence is completed.

162 Section 5. Section 948.20, Florida Statutes, is amended to  
163 read:

164 948.20 Drug offender probation.—If it appears to the court  
165 upon a hearing that the defendant is a chronic substance abuser  
166 whose criminal conduct is a violation of s. 893.13(2)(a) or  
167 (6)(a), or other nonviolent felony, the court may either adjudge  
168 the defendant guilty or stay and withhold the adjudication of  
169 guilt. ~~and~~, In either case, the court ~~it~~ may also stay and  
170 withhold the imposition of sentence and place the defendant on  
171 drug offender probation or into a postadjudicatory treatment-  
172 based drug court program if the defendant otherwise qualifies.



444324

604-03532-09

173 As used in this section, the term "nonviolent felony" means a  
174 third-degree felony violation under chapter 810 or any other  
175 felony offense that is not a forcible felony as defined in s.  
176 776.08.

177 (1) The Department of Corrections shall develop and  
178 administer a drug offender probation program which emphasizes a  
179 combination of treatment and intensive community supervision  
180 approaches and which includes provision for supervision of  
181 offenders in accordance with a specific treatment plan. The  
182 program may include the use of graduated sanctions consistent  
183 with the conditions imposed by the court. Drug offender  
184 probation status shall include surveillance and random drug  
185 testing, and may include those measures normally associated with  
186 community control, except that specific treatment conditions and  
187 other treatment approaches necessary to monitor this population  
188 may be ordered.

189 (2) Offenders placed on drug offender probation are subject  
190 to revocation of probation as provided in s. 948.06.

191 Section 6. Paragraphs (b) and (c) of subsection (6) of  
192 section 948.08, Florida Statutes, are amended to read:

193 948.08 Pretrial intervention program.—

194 (6)

195 (b) While enrolled in a pretrial intervention program  
196 authorized by this subsection, the participant is subject to a  
197 coordinated strategy developed by a drug court team under s.  
198 397.334(4) ~~s. 397.334(3)~~.

199 The coordinated strategy may include a protocol of  
200 sanctions that may be imposed upon the participant for  
201 noncompliance with program rules. The protocol of sanctions may



444324

604-03532-09

202 include, but is not limited to, placement in a substance abuse  
203 treatment program offered by a licensed service provider as  
204 defined in s. 397.311 or in a jail-based treatment program or  
205 serving a period of incarceration within the time limits  
206 established for contempt of court. The coordinated strategy must  
207 be provided in writing to the participant before the participant  
208 agrees to enter into a pretrial treatment-based drug court  
209 program or other pretrial intervention program. Any person whose  
210 charges are dismissed after successful completion of the  
211 treatment-based drug court program, if otherwise eligible, may  
212 have his or her arrest record and plea of nolo contendere to the  
213 dismissed charges expunged under s. 943.0585.

214 (c) At the end of the pretrial intervention period, the  
215 court shall consider the recommendation of the administrator  
216 pursuant to subsection (5) and the recommendation of the state  
217 attorney as to disposition of the pending charges. The court  
218 shall determine, by written finding, whether the defendant has  
219 successfully completed the pretrial intervention program.  
220 Notwithstanding the coordinated strategy developed by a drug  
221 court team pursuant to s. 397.334(4) ~~s. 397.334(3)~~, if the court  
222 finds that the defendant has not successfully completed the  
223 pretrial intervention program, the court may order the person to  
224 continue in education and treatment, which may include substance  
225 abuse treatment programs offered by licensed service providers  
226 as defined in s. 397.311 or jail-based treatment programs, or  
227 order that the charges revert to normal channels for  
228 prosecution. The court shall dismiss the charges upon a finding  
229 that the defendant has successfully completed the pretrial  
230 intervention program.





444324

604-03532-09

231 Section 7. Paragraph (b) of subsection (1) and subsection  
232 (2) of section 948.16, Florida Statutes, is amended to read:

233 948.16 Misdemeanor pretrial substance abuse education and  
234 treatment intervention program.—

235 (1)

236 (b) While enrolled in a pretrial intervention program  
237 authorized by this section, the participant is subject to a  
238 coordinated strategy developed by a drug court team under s.  
239 397.334(4) ~~s. 397.334(3)~~. The coordinated strategy may include a  
240 protocol of sanctions that may be imposed upon the participant  
241 for noncompliance with program rules. The protocol of sanctions  
242 may include, but is not limited to, placement in a substance  
243 abuse treatment program offered by a licensed service provider  
244 as defined in s. 397.311 or in a jail-based treatment program or  
245 serving a period of incarceration within the time limits  
246 established for contempt of court. The coordinated strategy must  
247 be provided in writing to the participant before the participant  
248 agrees to enter into a pretrial treatment-based drug court  
249 program or other pretrial intervention program. Any person whose  
250 charges are dismissed after successful completion of the  
251 treatment-based drug court program, if otherwise eligible, may  
252 have his or her arrest record and plea of nolo contendere to the  
253 dismissed charges expunged under s. 943.0585.

254 (2) At the end of the pretrial intervention period, the  
255 court shall consider the recommendation of the treatment program  
256 and the recommendation of the state attorney as to disposition  
257 of the pending charges. The court shall determine, by written  
258 finding, whether the defendant successfully completed the  
259 pretrial intervention program. Notwithstanding the coordinated



444324

604-03532-09

260 strategy developed by a drug court team pursuant to s.  
261 397.334(4) ~~s. 397.334(3)~~, if the court finds that the defendant  
262 has not successfully completed the pretrial intervention  
263 program, the court may order the person to continue in education  
264 and treatment or return the charges to the criminal docket for  
265 prosecution. The court shall dismiss the charges upon finding  
266 that the defendant has successfully completed the pretrial  
267 intervention program.

268 Section 8. Subsections (2) and (3) of section 985.345,  
269 Florida Statutes, are amended to read:

270 985.345 Delinquency pretrial intervention program.—

271 (2) While enrolled in a delinquency pretrial intervention  
272 program authorized by this section, a child is subject to a  
273 coordinated strategy developed by a drug court team under s.  
274 397.334(4) ~~s. 397.334(3)~~. The coordinated strategy may include a  
275 protocol of sanctions that may be imposed upon the child for  
276 noncompliance with program rules. The protocol of sanctions may  
277 include, but is not limited to, placement in a substance abuse  
278 treatment program offered by a licensed service provider as  
279 defined in s. 397.311 or serving a period of secure detention  
280 under this chapter. The coordinated strategy must be provided in  
281 writing to the child before the child agrees to enter the  
282 pretrial treatment-based drug court program or other pretrial  
283 intervention program. Any child whose charges are dismissed  
284 after successful completion of the treatment-based drug court  
285 program, if otherwise eligible, may have his or her arrest  
286 record and plea of nolo contendere to the dismissed charges  
287 expunged under s. 943.0585.

288 (3) At the end of the delinquency pretrial intervention



444324

604-03532-09

289 period, the court shall consider the recommendation of the state  
290 attorney and the program administrator as to disposition of the  
291 pending charges. The court shall determine, by written finding,  
292 whether the child has successfully completed the delinquency  
293 pretrial intervention program. Notwithstanding the coordinated  
294 strategy developed by a drug court team pursuant to s.  
295 397.334(4) ~~s. 397.334(3)~~, if the court finds that the child has  
296 not successfully completed the delinquency pretrial intervention  
297 program, the court may order the child to continue in an  
298 education, treatment, or urine monitoring program if resources  
299 and funding are available or order that the charges revert to  
300 normal channels for prosecution. The court may dismiss the  
301 charges upon a finding that the child has successfully completed  
302 the delinquency pretrial intervention program.

303 Section 9. This act shall take effect July 1, 2009.