

By the Committee on Criminal Justice; and Senators Wise and Fasano

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

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30 total sentence points that a defendant may have and be  
31 eligible for a postadjudicatory treatment-based drug  
32 court program; providing an effective date.

33  
34 Be It Enacted by the Legislature of the State of Florida:

35  
36 Section 1. Subsections (3) and (5) of section 397.334,  
37 Florida Statutes, are amended to read:

38 397.334 Treatment-based drug court programs.—

39 (3) (a) Entry into any postadjudicatory treatment-based drug  
40 court program as a condition of probation or community control  
41 pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based  
42 upon the sentencing court's assessment of the defendant's  
43 criminal history, substance abuse screening outcome, amenability  
44 to the services of the program, total sentence points, the  
45 recommendation of the state attorney and the victim, if any, and  
46 the defendant's agreement to enter the program.

47 (b) An offender who is sentenced to a postadjudicatory drug  
48 court program and who, while a drug court participant, is the  
49 subject of a violation of probation or community control under  
50 s. 948.06, ~~based solely upon a failed or suspect substance abuse~~  
51 ~~test administered pursuant to s. 948.01 or s. 948.03~~, shall have  
52 the violation of probation or community control heard by the  
53 judge presiding over the postadjudicatory drug court program.  
54 The judge shall dispose of any such violation, after a hearing  
55 on or admission of the violation, as he or she deems appropriate  
56 if the resulting sentence or conditions are lawful.

57 (5) Treatment-based drug court programs may include  
58 pretrial intervention programs as provided in ss. 948.08,

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59 948.16, and 985.345, treatment-based drug court programs  
60 authorized in chapter 39, postadjudicatory programs as provided  
61 in ss. 948.01, 948.06, and 948.20, and review of the status of  
62 compliance or noncompliance of sentenced offenders through a  
63 treatment-based drug court program. While enrolled in a  
64 treatment-based drug court program, the participant is subject  
65 to a coordinated strategy developed by a drug court team under  
66 subsection (4). The coordinated strategy may include a protocol  
67 of sanctions that may be imposed upon the participant for  
68 noncompliance with program rules. The protocol of sanctions may  
69 include, but is not limited to, placement in a substance abuse  
70 treatment program offered by a licensed service provider as  
71 defined in s. 397.311 or in a jail-based treatment program or  
72 serving a period of secure detention under chapter 985 if a  
73 child or a period of incarceration within the time limits  
74 established for contempt of court if an adult. The coordinated  
75 strategy must be provided in writing to the participant before  
76 the participant agrees to enter into a treatment-based drug  
77 court program.

78 Section 2. Paragraph (m) of subsection (2) of section  
79 921.0026, Florida Statutes, is amended to read:

80 921.0026 Mitigating circumstances.—This section applies to  
81 any felony offense, except any capital felony, committed on or  
82 after October 1, 1998.

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

86 (m) The defendant's offense is a nonviolent felony, the  
87 defendant's Criminal Punishment Code scoresheet total sentence

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88 points under s. 921.0024 are 60 ~~52~~ points or fewer, and the  
89 court determines that the defendant is amenable to the services  
90 of a postadjudicatory treatment-based drug court program and is  
91 otherwise qualified to participate in the program as part of the  
92 sentence. For purposes of this paragraph, the term "nonviolent  
93 felony" has the same meaning as provided in s. 948.08(6).

94 Section 3. Paragraph (a) of subsection (7) of section  
95 948.01, Florida Statutes, is amended to read:

96 948.01 When court may place defendant on probation or into  
97 community control.—

98 (7) (a) Notwithstanding s. 921.0024 and effective for  
99 offenses committed on or after July 1, 2009, the sentencing  
100 court may place the defendant into a postadjudicatory treatment-  
101 based drug court program if the defendant's Criminal Punishment  
102 Code scoresheet total sentence points under s. 921.0024 are 60  
103 ~~52~~ points or fewer, and the offense defendant is a nonviolent  
104 felony ~~offender~~, the defendant is amenable to substance abuse  
105 treatment, and the defendant otherwise qualifies under s.  
106 397.334(3). The satisfactory completion of the program shall be  
107 a condition of the defendant's probation or community control.  
108 As used in this subsection, the term "nonviolent felony" means a  
109 third degree felony violation under chapter 810 or any other  
110 felony offense that is not a forcible felony as defined in s.  
111 776.08.

112 Section 4. Paragraph (i) of subsection (2) of section  
113 948.06, Florida Statutes, is amended to read:

114 948.06 Violation of probation or community control;  
115 revocation; modification; continuance; failure to pay  
116 restitution or cost of supervision.—

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- 117 (2)
- 118 (i)1. Notwithstanding s. 921.0024 and effective for
- 119 offenses committed on or after July 1, 2009, the court may order
- 120 the defendant to successfully complete a postadjudicatory
- 121 treatment-based drug court program if:
- 122 a. The court finds or the offender admits that the offender
- 123 has violated his or her community control or probation ~~and the~~
- 124 ~~violation was due only to a failed or suspect substance abuse~~
- 125 ~~test;~~
- 126 b. The offender's Criminal Punishment Code scoresheet total
- 127 sentence points under s. 921.0024 are 60 ~~52~~ points or fewer
- 128 after including points for the violation;
- 129 c. The underlying offense is a nonviolent felony. As used
- 130 in this subsection, the term "nonviolent felony" means a third
- 131 degree felony violation under chapter 810 or any other felony
- 132 offense that is not a forcible felony as defined in s. 776.08;
- 133 d. The court determines that the offender is amenable to
- 134 the services of a postadjudicatory treatment-based drug court
- 135 program;
- 136 e. The court has explained the purpose of the program to
- 137 the offender and the offender has agreed to participate; and
- 138 f. The offender is otherwise qualified to participate in
- 139 the program under the provisions of s. 397.334(3).
- 140 2. After the court orders the modification of community
- 141 control or probation, the original sentencing court shall
- 142 relinquish jurisdiction of the offender's case to the
- 143 postadjudicatory treatment-based drug court program until the
- 144 offender is no longer active in the program, the case is
- 145 returned to the sentencing court due to the offender's

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146 termination from the program for failure to comply with the  
147 terms thereof, or the offender's sentence is completed.

148 Section 5. Section 948.20, Florida Statutes, is amended to  
149 read:

150 948.20 Drug offender probation.—

151 (1) If it appears to the court upon a hearing that the  
152 defendant is a chronic substance abuser whose criminal conduct  
153 is a violation of s. 893.13(2)(a) or (6)(a), or other nonviolent  
154 felony if such nonviolent felony is committed on or after July  
155 1, 2009, and notwithstanding s. 921.0024 the defendant's  
156 Criminal Punishment Code scoresheet total sentence points are 60  
157 ~~52~~ points or fewer, the court may either adjudge the defendant  
158 guilty or stay and withhold the adjudication of guilt. In either  
159 case, the court may also stay and withhold the imposition of  
160 sentence and place the defendant on drug offender probation or  
161 into a postadjudicatory treatment-based drug court program if  
162 the defendant otherwise qualifies. As used in this section, the  
163 term "nonviolent felony" means a third degree felony violation  
164 under chapter 810 or any other felony offense that is not a  
165 forcible felony as defined in s. 776.08.

166 (2)~~(1)~~ The Department of Corrections shall develop and  
167 administer a drug offender probation program which emphasizes a  
168 combination of treatment and intensive community supervision  
169 approaches and which includes provision for supervision of  
170 offenders in accordance with a specific treatment plan. The  
171 program may include the use of graduated sanctions consistent  
172 with the conditions imposed by the court. Drug offender  
173 probation status shall include surveillance and random drug  
174 testing, and may include those measures normally associated with

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175 community control, except that specific treatment conditions and  
176 other treatment approaches necessary to monitor this population  
177 may be ordered.

178 (3)~~(2)~~ Offenders placed on drug offender probation are  
179 subject to revocation of probation as provided in s. 948.06.

180 Section 6. This act shall take effect July 1, 2011.