

By the Committee on Criminal Justice; and Senator Rouson

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1 A bill to be entitled
2 An act relating to criminal justice; amending s.
3 775.082, F.S.; requiring that a court sentence a
4 defendant who is convicted of a primary offense of
5 possession of a controlled substance committed on or
6 after a specified date to a nonstate prison sanction
7 under certain circumstances; defining the term
8 "possession of a controlled substance"; authorizing a
9 defendant to move the sentencing court to depart from
10 a mandatory minimum prison sentence and a mandatory
11 fine if the offense is committed on or after a
12 specified date; authorizing the state attorney to file
13 an objection to the motion; authorizing the sentencing
14 court to grant the motion if the court finds that the
15 defendant has demonstrated by a preponderance of the
16 evidence that specified criteria are met; defining the
17 term "coercion"; providing applicability; creating s.
18 921.00215, F.S.; providing legislative findings;
19 creating the Sentencing Commission within the Supreme
20 Court; providing for commission membership and terms
21 of office; providing that commission membership does
22 not disqualify a member from holding any other public
23 office or from being employed by a public entity;
24 authorizing reimbursement for per diem and travel
25 expenses; requiring the Office of the State Courts
26 Administrator to act as staff for the commission;
27 requiring the commission to meet annually or upon the
28 call of the chair for specified purposes; requiring
29 the Department of Corrections to perform specified

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30 duties upon request of the commission; requiring the
31 commission to annually, by a specified date, make
32 recommendations to the Governor, the justices of the
33 Supreme Court, and the Legislature; amending s.
34 921.00241, F.S.; revising the circumstances under
35 which an offender may be sentenced to a nonstate
36 prison sanction; authorizing a nonstate prison
37 sanction under a prison diversion program for certain
38 offenders who commit a nonviolent felony of the second
39 degree on or after a specified date; amending s.
40 921.0026, F.S.; revising the mitigating circumstances
41 under which a departure from the lowest permissible
42 sentence is reasonably justified; making technical
43 changes; amending s. 948.01, F.S.; requiring a
44 sentencing court to place certain defendants who
45 commit an offense on or after a specified date into a
46 postadjudicatory treatment-based drug court program,
47 into residential drug treatment, or on drug offender
48 probation; making technical changes; reenacting ss.
49 775.08435(1)(b) and (c), 921.002(3), and 921.00265(1),
50 F.S., relating to the prohibition on withholding
51 adjudication in felony cases, the Criminal Punishment
52 Code, and recommended and departure sentences,
53 respectively, to incorporate the amendment made to s.
54 921.0026, F.S., in references thereto; reenacting ss.
55 394.47892(2) and (4)(a), 397.334(3)(a) and (5),
56 910.035(5)(a), 921.187(1)(c), and 943.04352, F.S.,
57 relating to mental health court programs, treatment-
58 based drug court programs, transfer for participation

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59 in a problem-solving court, offender probation with or
60 without adjudication of guilt, and court placement of
61 a defendant on misdemeanor probation, respectively, to
62 incorporate the amendment made to s. 948.01, F.S., in
63 references thereto; providing an effective date.
64

65 Be It Enacted by the Legislature of the State of Florida:
66

67 Section 1. Present subsection (11) of section 775.082,
68 Florida Statutes, is redesignated as subsection (13), and a new
69 subsection (11) and subsection (12) are added to that section,
70 to read:

71 775.082 Penalties; applicability of sentencing structures;
72 mandatory minimum sentences for certain reoffenders previously
73 released from prison.—

74 (11) If a defendant is sentenced for a primary offense of
75 possession of a controlled substance committed on or after
76 October 1, 2017, and if the total sentence points pursuant to s.
77 921.0024 are 60 points or fewer, the court must sentence the
78 offender to a nonstate prison sanction. However, if the court
79 makes written findings that a nonstate prison sanction could
80 present a danger to the public, the court may sentence the
81 offender to a state correctional facility pursuant to this
82 section. As used in this subsection, the term "possession of a
83 controlled substance" means possession of a controlled substance
84 in violation of s. 893.13, but does not include possession with
85 intent to sell, manufacture, or deliver a controlled substance
86 or possession of a controlled substance in violation of s.
87 893.135.

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88 (12) (a) A person who is convicted of an offense committed
89 on or after October 1, 2017, which requires that a mandatory
90 minimum prison sentence be imposed may move the sentencing court
91 to depart from the mandatory minimum prison sentence and, if
92 applicable, the mandatory fine. The state attorney may file an
93 objection to the motion.

94 (b) The court may grant the motion if the court finds that
95 the defendant has demonstrated by a preponderance of the
96 evidence that all of the following criteria are met:

97 1. The defendant has not previously received a departure
98 under this subsection and has not been previously convicted of
99 the same offense for which the defendant requests a departure
100 under this subsection;

101 2. The offense is not a forcible felony as defined in s.
102 776.08 or a misdemeanor that involves the use or threat of
103 physical force or violence against another person. However,
104 burglary of an unoccupied structure or conveyance is not
105 considered a forcible felony for purposes of this subparagraph;

106 3. The offense does not involve physical injury to another
107 person or coercion of another person; and

108 4. The offense does not involve a victim who is a minor or
109 the use of a minor in the commission of the offense.

110 (c) As used in this subsection, the term "coercion" means:

111 1. Using or threatening to use physical force or violence
112 against another person; or

113 2. Restraining or confining or threatening to restrain or
114 confine another person without lawful authority and against the
115 other person's will.

116 (d) This subsection does not apply to sentencing pursuant

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117 to subsection (9), s. 775.0837, s. 775.084, or s. 794.0115.

118 Section 2. Section 921.00215, Florida Statutes, is created
119 to read:

120 921.00215 Sentencing Commission; recommendations regarding
121 offense severity level rankings for noncapital felonies.-

122 (1) The Legislature, in the exercise of its authority to
123 determine appropriate offense severity level rankings for
124 noncapital felony offenses sentenced under the Criminal
125 Punishment Code, finds that it is in the best interest of the
126 state to create a Sentencing Commission for the purpose of
127 providing advice and recommendations to the Governor, the
128 Supreme Court, and the Legislature regarding the appropriate
129 offense severity level rankings for noncapital felonies.

130 (2) (a) The Sentencing Commission is created exclusively as
131 an advisory body within the Supreme Court.

132 (b) The commission consists of the following 17 members:

133 1. Two members of the Senate, one of whom is a member of
134 the majority party appointed by the President of the Senate and
135 one of whom is a member of the minority party appointed by the
136 Minority Leader of the Senate;

137 2. Two members of the House of Representatives, one of whom
138 is a member of the majority party appointed by the Speaker of
139 the House of Representatives and one of whom is a member of the
140 minority party appointed by the Minority Leader of the House of
141 Representatives;

142 3. The Chief Justice of the Supreme Court, or a member of
143 the Supreme Court designated by the Chief Justice, who shall
144 serve as chair of the commission;

145 4. Five members appointed by the Chief Justice of the

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146 Supreme Court, three of whom are circuit court judges, one of
147 whom is a county court judge, and one of whom is a
148 representative of the victim advocacy profession;

149 5. The Attorney General or his or her designee;

150 6. The Secretary of Corrections or his or her designee; and

151 7. Five members appointed by the Governor, one of whom is a
152 state attorney recommended by the Florida Prosecuting Attorneys
153 Association, one of whom is a public defender recommended by the
154 Public Defenders Association, one of whom is a private attorney
155 recommended by the president of The Florida Bar, and two of whom
156 are representatives of the general public.

157
158 The membership of the commission must reflect the geographic and
159 ethnic diversity of the state.

160 (c) The commission members appointed by the Governor and
161 the legislative appointees serve 2-year terms. The members
162 appointed by the Chief Justice of the Supreme Court serve at his
163 or her pleasure. The terms of the Attorney General or his or her
164 designee, the Secretary of Corrections or his or her designee,
165 and the Chief Justice of the Supreme Court or his or her
166 designee continue as long as the Attorney General, the Secretary
167 of Corrections, and the Chief Justice of the Supreme Court serve
168 in their respective positions.

169 (d) Commission membership does not disqualify a member from
170 holding any other public office or from being employed by a
171 public entity. The Legislature finds and declares that the
172 commission serves a state, county, and municipal purpose and
173 that service on the commission is consistent with a member's
174 principal service in a public office or in public employment.

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175 (e) Members of the commission serve without compensation
176 but are entitled to be reimbursed for per diem and travel
177 expenses as provided in s. 112.061.

178 (f) The Office of the State Courts Administrator shall act
179 as staff for the commission and, except as otherwise provided in
180 paragraph (3) (b), shall provide all necessary data collection,
181 analysis, and research and support services.

182 (3) (a) The commission shall meet annually or at the call of
183 the chair to:

184 1. Review the offense severity level ranking assigned to
185 noncapital felony offenses under s. 921.0022 or s. 921.0023.

186 2. Recommend the inclusion of any noncapital felony
187 offense, including a newly created noncapital felony offense, on
188 the offense severity ranking chart provided in s. 921.0022 and
189 recommend the appropriate offense severity level ranking to
190 assign to each offense that the commission recommends for
191 inclusion.

192 3. Recommend the removal of any noncapital felony offense
193 ranked on the offense severity ranking chart provided in s.
194 921.0022 and rank such noncapital felony offense pursuant to s.
195 921.0023.

196 4. Recommend a revision to the level of any noncapital
197 felony offense ranked on the offense severity ranking chart
198 provided in s. 921.0022 and recommend the appropriate offense
199 severity level ranking to assign to each offense that the
200 commission recommends be revised.

201 (b) Upon the request of the commission, the Department of
202 Corrections shall provide an estimate of the prison bed impact
203 of any change to an offense severity level ranking which the

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204 commission is considering and shall provide technical assistance
205 to the commission for the purpose of assisting it in reviewing
206 the offense severity level rankings and in preparing its
207 recommendations pursuant to paragraph (c).

208 (c) The commission shall make recommendations no later than
209 October 1 of each year to the Governor, the justices of the
210 Supreme Court, the President of the Senate, the Speaker of the
211 House of Representatives, and the chairs of the relevant
212 legislative committees of both houses on appropriate offense
213 severity level rankings for noncapital felonies. The basis for
214 each recommendation must be identified and explained, and each
215 recommendation must include an estimate of the associated prison
216 bed impact.

217 Section 3. Section 921.00241, Florida Statutes, is amended
218 to read:

219 921.00241 Prison diversion program.—

220 (1) Notwithstanding s. 921.0024 and effective for offenses
221 committed on or after July 1, 2009, a court may divert from the
222 state correctional system an offender who would otherwise be
223 sentenced to a state facility by sentencing the offender to a
224 nonstate prison sanction as provided in subsection (4) ~~(2)~~. An
225 offender may be sentenced to a nonstate prison sanction if the
226 offender's primary offense is a felony of the third degree and
227 the offender meets all of the following criteria in subsection
228 (3).÷

229 (2) Notwithstanding s. 921.0024 and effective for offenses
230 committed on or after October 1, 2017, a court may divert from
231 the state correctional system an offender who would otherwise be
232 sentenced to a state facility by sentencing the offender to a

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233 nonstate prison sanction as provided in subsection (4). An
234 offender may be sentenced to a nonstate prison sanction if the
235 offender's primary offense is a felony of the second degree and
236 the offender meets all of the criteria in subsection (3).

237 (3) The court shall consider the following criteria for a
238 nonstate prison sanction:

239 ~~(a) The offender's primary offense is a felony of the third~~
240 ~~degree.~~

241 (a)1.~~(b)~~ For offenses committed on or after July 1, 2009,
242 and before October 1, 2017, the offender's total sentence points
243 score, as provided in s. 921.0024, is not more than 48 points,
244 or the offender's total sentence points score is 54 points and 6
245 of those points are for a violation of probation, community
246 control, or other community supervision, and do not involve a
247 new violation of law.

248 2. For offenses committed on or after October 1, 2017, the
249 offender's Criminal Punishment Code scoresheet total sentence
250 points under s. 921.0024 are 60 points are fewer.

251 ~~(b)~~~~(e)~~ The offender has not been convicted or previously
252 convicted of a forcible felony as defined in s. 776.08, but
253 excluding any third degree felony violation under chapter 810.

254 ~~(c)~~~~(d)~~ The offender's primary offense does not require a
255 minimum mandatory sentence.

256 (4)~~(2)~~ If the court elects to impose a sentence as provided
257 in this section, the court shall sentence the offender to a term
258 of probation, community control, or community supervision with
259 mandatory participation in a prison diversion program of the
260 Department of Corrections if such program is funded and exists
261 in the judicial circuit in which the offender is sentenced. The

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262 prison diversion program shall be designed to meet the unique
263 needs of each judicial circuit and of the offender population of
264 that circuit. The program may require residential,
265 nonresidential, or day-reporting requirements; substance abuse
266 treatment; employment; restitution; academic or vocational
267 opportunities; or community service work.

268 (5)~~(3)~~ The court that sentences a defendant to a nonstate
269 prison sanction pursuant to subsection (4) ~~(2)~~ shall make
270 written findings that the defendant meets the criteria in
271 subsection (1) or subsection (2); and the sentencing order must
272 indicate that the offender was sentenced to the prison diversion
273 program pursuant to subsection (4) ~~(2)~~. The court may order the
274 offender to pay all or a portion of the costs related to the
275 prison diversion program if the court determines that the
276 offender has the ability to pay.

277 Section 4. Section 921.0026, Florida Statutes, is amended
278 to read:

279 921.0026 Mitigating circumstances.—This section applies to
280 any felony offense, except any capital felony, committed on or
281 after October 1, 1998.

282 (1) A downward departure from the lowest permissible
283 sentence, as calculated according to the total sentence points
284 pursuant to s. 921.0024, is prohibited unless there are
285 circumstances or factors that reasonably justify the downward
286 departure. Mitigating factors to be considered include, but are
287 not limited to, those listed in subsection (2). The imposition
288 of a sentence below the lowest permissible sentence is subject
289 to appellate review under chapter 924, but the extent of
290 downward departure is not subject to appellate review.

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

294 (a) The departure results from a legitimate, uncoerced plea
295 bargain.

296 (b) The defendant was an accomplice to the offense and was
297 a relatively minor participant in the criminal conduct.

298 (c) The capacity of the defendant to appreciate the
299 criminal nature of the conduct or to conform that conduct to the
300 requirements of law was substantially impaired.

301 (d) For an offense committed on or after October 1, 1998,
302 but before October 1, 2017, the defendant requires specialized
303 treatment for a mental disorder that is unrelated to substance
304 abuse or addiction or for a physical disability, and the
305 defendant is amenable to treatment.

306 (e) For an offense committed on or after October 1, 2017,
307 the defendant requires specialized treatment for an addiction, a
308 mental disorder, or a physical disability, and the defendant is
309 amenable to treatment.

310 (f) ~~(e)~~ The need for payment of restitution to the victim
311 outweighs the need for a prison sentence.

312 (g) ~~(f)~~ The victim was an initiator, willing participant,
313 aggressor, or provoker of the incident.

314 (h) ~~(g)~~ The defendant acted under extreme duress or under
315 the domination of another person.

316 (i) ~~(h)~~ Before the identity of the defendant was determined,
317 the victim was substantially compensated.

318 (j) ~~(i)~~ The defendant cooperated with the state to resolve
319 the current offense or any other offense.

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320 ~~(k)-(j)~~ The offense was committed in an unsophisticated
321 manner and was an isolated incident for which the defendant has
322 shown remorse.

323 ~~(l)-(k)~~ At the time of the offense the defendant was too
324 young to appreciate the consequences of the offense.

325 ~~(m)-(l)~~ The defendant is to be sentenced as a youthful
326 offender.

327 ~~(n)-(m)~~ For an offense committed on or after October 1,
328 1998, but before October 1, 2017, the defendant's offense is a
329 nonviolent felony, the defendant's Criminal Punishment Code
330 scoresheet total sentence points under s. 921.0024 are 60 points
331 or fewer, and the court determines that the defendant is
332 amenable to the services of a postadjudicatory treatment-based
333 drug court program and is otherwise qualified to participate in
334 the program as part of the sentence. Except as provided in this
335 paragraph, the defendant's substance abuse or addiction,
336 including intoxication at the time of the offense, is not a
337 mitigating factor for an offense committed on or after October
338 1, 1998, but before October 1, 2017, and does not, under any
339 circumstance, justify a downward departure from the permissible
340 sentencing range ~~For purposes of this paragraph, the term~~
341 ~~"nonviolent felony" has the same meaning as provided in s.~~
342 ~~948.08(6).~~

343 ~~(o)~~ For an offense committed on or after October 1, 2017,
344 the defendant's offense is a nonviolent felony, and the
345 defendant's Criminal Punishment Code scoresheet total sentence
346 points under s. 921.0024 are 60 points or fewer.

347 ~~(p)-(n)~~ The defendant was making a good faith effort to
348 obtain or provide medical assistance for an individual

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349 experiencing a drug-related overdose.

350 (3) As used in subsection (2), the term "nonviolent felony"
351 has the same meaning as provided in s. 948.08 ~~Except as provided~~
352 ~~in paragraph (2)(m), the defendant's substance abuse or~~
353 ~~addiction, including intoxication at the time of the offense, is~~
354 ~~not a mitigating factor under subsection (2) and does not, under~~
355 ~~any circumstances, justify a downward departure from the~~
356 ~~permissible sentencing range.~~

357 Section 5. Subsection (7) of section 948.01, Florida
358 Statutes, is amended to read:

359 948.01 When court may place defendant on probation or into
360 community control.—

361 (7) (a) Notwithstanding s. 921.0024 and effective for
362 offenses committed on or after July 1, 2009, the sentencing
363 court may place the defendant into a postadjudicatory treatment-
364 based drug court program if the defendant's Criminal Punishment
365 Code scoresheet total sentence points under s. 921.0024 are 60
366 points or fewer, the offense is a nonviolent felony, the
367 defendant is amenable to substance abuse treatment, and the
368 defendant otherwise qualifies under s. 397.334(3). The
369 satisfactory completion of the program shall be a condition of
370 the defendant's probation or community control. ~~As used in this~~
371 ~~subsection, the term "nonviolent felony" means a third degree~~
372 ~~felony violation under chapter 810 or any other felony offense~~
373 ~~that is not a forcible felony as defined in s. 776.08.~~

374 (b) Notwithstanding s. 921.0024 and effective for offenses
375 committed on or after October 1, 2017, the sentencing court must
376 place the defendant into a postadjudicatory treatment-based drug
377 court program, into residential drug treatment, or on drug

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378 offender probation if the defendant's Criminal Punishment Code
379 scoresheet total sentence points under s. 921.0024 are 60 points
380 or fewer, the offense is a nonviolent felony, the defendant is
381 amenable to substance abuse treatment, the defendant's criminal
382 behavior is related to substance abuse or addiction, and the
383 defendant otherwise qualifies under s. 397.334(3). The
384 satisfactory completion of the program must be a condition of
385 the defendant's probation or community control.

386 (c) ~~(b)~~ In order to be placed in a postadjudicatory
387 treatment-based drug court program under paragraph (a) or
388 paragraph (b), the defendant must be fully advised of the
389 purpose of the program, and the defendant must agree to enter
390 the program. The original sentencing court shall relinquish
391 jurisdiction of the defendant's case to the postadjudicatory
392 drug court program until the defendant is no longer active in
393 the program, the case is returned to the sentencing court due to
394 the defendant's termination from the program for failure to
395 comply with the terms thereof, or the defendant's sentence is
396 completed.

397 (d) As used in this subsection, the term "nonviolent
398 felony" means a third degree felony violation under chapter 810
399 or any other felony offense that is not a forcible felony as
400 defined in s. 776.08.

401 Section 6. For the purpose of incorporating the amendment
402 made by this act to section 921.0026, Florida Statutes, in
403 references thereto, paragraphs (b) and (c) of subsection (1) of
404 section 775.08435, Florida Statutes, are reenacted to read:

405 775.08435 Prohibition on withholding adjudication in felony
406 cases.-

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407 (1) Notwithstanding the provisions of s. 948.01, the court
408 may not withhold adjudication of guilt upon the defendant for:

409 (b) A second degree felony offense unless:

410 1. The state attorney requests in writing that adjudication
411 be withheld; or

412 2. The court makes written findings that the withholding of
413 adjudication is reasonably justified based on circumstances or
414 factors in accordance with those set forth in s. 921.0026.

415

416 Notwithstanding any provision of this section, no adjudication
417 of guilt shall be withheld for a second degree felony offense if
418 the defendant has a prior withholding of adjudication for a
419 felony that did not arise from the same transaction as the
420 current felony offense.

421 (c) A third degree felony offense if the defendant has a
422 prior withholding of adjudication for a felony offense that did
423 not arise from the same transaction as the current felony
424 offense unless:

425 1. The state attorney requests in writing that adjudication
426 be withheld; or

427 2. The court makes written findings that the withholding of
428 adjudication is reasonably justified based on circumstances or
429 factors in accordance with those set forth in s. 921.0026.

430

431 Notwithstanding any provision of this section, no adjudication
432 of guilt shall be withheld for a third degree felony offense if
433 the defendant has two or more prior withholdings of adjudication
434 for a felony that did not arise from the same transaction as the
435 current felony offense.

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436 Section 7. For the purpose of incorporating the amendment
437 made by this act to section 921.0026, Florida Statutes, in a
438 reference thereto, subsection (3) of section 921.002, Florida
439 Statutes, is reenacted to read:

440 921.002 The Criminal Punishment Code.—The Criminal
441 Punishment Code shall apply to all felony offenses, except
442 capital felonies, committed on or after October 1, 1998.

443 (3) A court may impose a departure below the lowest
444 permissible sentence based upon circumstances or factors that
445 reasonably justify the mitigation of the sentence in accordance
446 with s. 921.0026. The level of proof necessary to establish
447 facts supporting the mitigation of a sentence is a preponderance
448 of the evidence. When multiple reasons exist to support the
449 mitigation, the mitigation shall be upheld when at least one
450 circumstance or factor justifies the mitigation regardless of
451 the presence of other circumstances or factors found not to
452 justify mitigation. Any sentence imposed below the lowest
453 permissible sentence must be explained in writing by the trial
454 court judge.

455 Section 8. For the purpose of incorporating the amendment
456 made by this act to section 921.0026, Florida Statutes, in a
457 reference thereto, subsection (1) of section 921.00265, Florida
458 Statutes, is reenacted to read:

459 921.00265 Recommended sentences; departure sentences;
460 mandatory minimum sentences.—This section applies to any felony
461 offense, except any capital felony, committed on or after
462 October 1, 1998.

463 (1) The lowest permissible sentence provided by
464 calculations from the total sentence points pursuant to s.

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465 921.0024(2) is assumed to be the lowest appropriate sentence for
466 the offender being sentenced. A departure sentence is prohibited
467 unless there are mitigating circumstances or factors present as
468 provided in s. 921.0026 which reasonably justify a departure.

469 Section 9. For the purpose of incorporating the amendment
470 made by this act to section 948.01, Florida Statutes, in
471 references thereto, subsection (2) and paragraph (a) of
472 subsection (4) of section 394.47892, Florida Statutes, are
473 reenacted to read:

474 394.47892 Mental health court programs.—

475 (2) Mental health court programs may include pretrial
476 intervention programs as provided in ss. 948.08, 948.16, and
477 985.345, postadjudicatory mental health court programs as
478 provided in ss. 948.01 and 948.06, and review of the status of
479 compliance or noncompliance of sentenced defendants through a
480 mental health court program.

481 (4) (a) Entry into a postadjudicatory mental health court
482 program as a condition of probation or community control
483 pursuant to s. 948.01 or s. 948.06 must be based upon the
484 sentencing court's assessment of the defendant's criminal
485 history, mental health screening outcome, amenability to the
486 services of the program, and total sentence points; the
487 recommendation of the state attorney and the victim, if any; and
488 the defendant's agreement to enter the program.

489 Section 10. For the purpose of incorporating the amendment
490 made by this act to section 948.01, Florida Statutes, in
491 references thereto, paragraph (a) of subsection (3) and
492 subsection (5) of section 397.334, Florida Statutes, are
493 reenacted to read:

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494 397.334 Treatment-based drug court programs.—

495 (3) (a) Entry into any postadjudicatory treatment-based drug
496 court program as a condition of probation or community control
497 pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based
498 upon the sentencing court's assessment of the defendant's
499 criminal history, substance abuse screening outcome, amenability
500 to the services of the program, total sentence points, the
501 recommendation of the state attorney and the victim, if any, and
502 the defendant's agreement to enter the program.

503 (5) Treatment-based drug court programs may include
504 pretrial intervention programs as provided in ss. 948.08,
505 948.16, and 985.345, treatment-based drug court programs
506 authorized in chapter 39, postadjudicatory programs as provided
507 in ss. 948.01, 948.06, and 948.20, and review of the status of
508 compliance or noncompliance of sentenced offenders through a
509 treatment-based drug court program. While enrolled in a
510 treatment-based drug court program, the participant is subject
511 to a coordinated strategy developed by a drug court team under
512 subsection (4). The coordinated strategy may include a protocol
513 of sanctions that may be imposed upon the participant for
514 noncompliance with program rules. The protocol of sanctions may
515 include, but is not limited to, placement in a substance abuse
516 treatment program offered by a licensed service provider as
517 defined in s. 397.311 or in a jail-based treatment program or
518 serving a period of secure detention under chapter 985 if a
519 child or a period of incarceration within the time limits
520 established for contempt of court if an adult. The coordinated
521 strategy must be provided in writing to the participant before
522 the participant agrees to enter into a treatment-based drug

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523 court program.

524 Section 11. For the purpose of incorporating the amendment
525 made by this act to section 948.01, Florida Statutes, in a
526 reference thereto, paragraph (a) of subsection (5) of section
527 910.035, Florida Statutes, is reenacted to read:

528 910.035 Transfer from county for plea, sentence, or
529 participation in a problem-solving court.—

530 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

531 (a) For purposes of this subsection, the term "problem-
532 solving court" means a drug court pursuant to s. 948.01, s.
533 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans'
534 and servicemembers' court pursuant to s. 394.47891, s. 948.08,
535 s. 948.16, or s. 948.21; a mental health court program pursuant
536 to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16;
537 or a delinquency pretrial intervention court program pursuant to
538 s. 985.345.

539 Section 12. For the purpose of incorporating the amendment
540 made by this act to section 948.01, Florida Statutes, in a
541 reference thereto, paragraph (c) of subsection (1) of section
542 921.187, Florida Statutes, is reenacted to read:

543 921.187 Disposition and sentencing; alternatives;
544 restitution.—

545 (1) The alternatives provided in this section for the
546 disposition of criminal cases shall be used in a manner that
547 will best serve the needs of society, punish criminal offenders,
548 and provide the opportunity for rehabilitation. If the offender
549 does not receive a state prison sentence, the court may:

550 (c) Place the offender on probation with or without an
551 adjudication of guilt pursuant to s. 948.01.

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552 Section 13. For the purpose of incorporating the amendment
553 made by this act to section 948.01, Florida Statutes, in a
554 reference thereto, section 943.04352, Florida Statutes, is
555 reenacted to read:

556 943.04352 Search of registration information regarding
557 sexual predators and sexual offenders required when placement on
558 misdemeanor probation.—When the court places a defendant on
559 misdemeanor probation pursuant to ss. 948.01 and 948.15, the
560 public or private entity providing probation services must
561 conduct a search of the probationer's name or other identifying
562 information against the registration information regarding
563 sexual predators and sexual offenders maintained by the
564 Department of Law Enforcement under s. 943.043. The probation
565 services provider may conduct the search using the Internet site
566 maintained by the Department of Law Enforcement. Also, a
567 national search must be conducted through the Dru Sjodin
568 National Sex Offender Public Website maintained by the United
569 States Department of Justice.

570 Section 14. This act shall take effect October 1, 2017.