

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: SB 508

INTRODUCER: Senator Rouson

SUBJECT: Problem-solving Courts

DATE: March 13, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 508 revises three statutes that govern admission to, and participation in, the state’s “problem-solving courts.” The problem-solving courts are pre-trial intervention court programs that afford a defendant the opportunity to participate in getting the help he or she needs and avoid a criminal conviction. This bill expands eligibility for pretrial intervention programs, creates consistency within the criteria of the programs, and revises data reporting requirements for the programs.

The bill takes effect July 1, 2023.

**II. Present Situation:**

**Problem-solving Courts**

Florida’s “problem-solving courts” are unique among the trial and appellate courts in the state. They are specifically designed to address the root causes of why people are involved in the criminal justice system and to help those people receive the treatment they need to leave the system. Presently, there are more than 185 problem-solving courts operating in the state.<sup>1</sup> While participation in these court programs is voluntary, there is a list of factors, such as the commission of violent crimes, which can disqualify someone from participating.

Rather than operate in the traditional adversarial model, problem-solving courts provide non-adversarial proceedings with a dedicated judge who holds each participant accountable for his or her actions. The courts also provide a broad-based problem-solving team made up of case managers, attorneys, treatment professionals, even law enforcement and correctional officers,

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<sup>1</sup> Office of the State Courts Administrator, *Florida Problem-Solving Courts Report, Pursuant to Section 43.51, F.S.* (Feb. 17, 2023). A map is attached at the end of this analysis showing the locations of these courts throughout the state.

and a guardian ad litem, if necessary.<sup>2</sup> The programs require regular court appearances by the participants and the length of the program is often, though not always, determined by the progress the participant makes as measured against specific guidelines.<sup>3</sup>

The problem-solving courts currently include adult drug courts, juvenile drug courts, dependency drug courts, veterans' courts, mental health courts, a community court, and a delinquency pretrial intervention court program.<sup>4,5</sup>

Section 948.08, F.S., addresses *felony* pretrial intervention programs while s. 948.16, F.S., establishes *misdemeanor* pretrial intervention programs.

### **Treatment-based Drug Court Programs (Section 1)**

#### ***Authorization, Admission, Disqualifying Criteria***

Each county is authorized to fund a treatment-based drug court program for people in the justice system who have a substance abuse problem.<sup>6</sup> Under current law, participation is voluntary, but admission is not guaranteed.

#### **Previously Rejected Offer**

Pursuant to s. 948.08(6)(c)1., F.S., the court or a state attorney may deny a defendant entry into the program if he or she was previously offered admission to the program and the defendant rejected that offer on the record.<sup>7</sup>

#### **Dealing or Selling Controlled Substances**

Pursuant to 948.08(6)(c)2., F.S., if the state attorney believes the defendant was involved in the dealing and selling of controlled substances, a court will hold a preadmission hearing. If the state attorney establishes by a preponderance of the evidence that the defendant was involved in dealing or selling controlled substances, the court is required to deny the defendant admission into the program.

#### ***Program Coordinator, Data Reporting Requirements***

If the Legislature appropriates sufficient funding annually, each judicial circuit must establish at least one coordinator position for the treatment-based drug court program within the state courts system. Among other assigned tasks, the coordinator is responsible for coordinating the

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<sup>2</sup> Florida Courts, Office of the State Courts Administrator, *Office of Problem-Solving Courts*, <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts>.

<sup>3</sup> Florida's 10<sup>th</sup> Judicial Circuit, *Problem Solving Court*, <https://www.jud10.flcourts.org/problem-solving-court#:~:text=Problem%20Solving%20Court%20programs%20are,random%20testing%20for%20substance%20use.>

<sup>4</sup> This definition of "problem-solving court" is provided in s. 43.51, F.S., which requires the Office of the State Courts Administrator to provide an annual report to the President of the Senate and the Speaker of the House of Representatives detailing participant, service, and financial data.

<sup>5</sup> Florida Courts, Office of the State Courts Administrator, Office of Problem-Solving Courts, *Defining Elements* <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts>.

<sup>6</sup> Section 397.334(1), F.S.

<sup>7</sup> Section 948.08(6)(c)1., F.S.

responsibilities of the participating agencies and providers as well as provide program evaluation and accountability.

Each judicial circuit is required to report client-level and programmatic data to the Office of the State Court Administrator (OSCA) annually for program evaluation. Client-level data includes cataloguing primary offenses that resulted in drug court referral or sentence and other details. Programmatic data includes referral and screening procedures, eligibility criteria, and similar categories.

According to the OSCA, it does not perform program evaluations such that it does not need to receive the client-level data from the circuits. The OSCA has stated that requiring this data collection also puts an unnecessary burden on the circuits to report the data and an unnecessary burden on the OSCA to collect the data.<sup>8</sup>

In contrast, the mental health court programs require each *program*, not each *circuit*, to gather client-level data and programmatic information for evaluation purposes. Of that information, only certain program information regarding client admissions and terminations are reported to the OSCA each year.

### **Pretrial Intervention Program for *Felony* Offenses (Section 2)**

Section 948.08, F.S., establishes three categories of pretrial intervention programs for felony offenses:

- Substance abuse education and treatment intervention, including a drug court program.
- Veterans treatment court program for veterans and service members.
- Mental health court program.

### **Substance Abuse Education and Treatment Intervention Program**

#### ***Program Duration – Not Less than 1 Year***

Section 948.08(6)(b), F.S., states that a person admitted into a pretrial substance abuse education and treatment intervention program is admitted for a period “of not less than 1 year in duration” if he or she meets certain criteria.

#### ***Possible Disqualifying Criteria – Previously Violent Crime or Rejection of Previous Offer for Admission***

Section 948.08(6)(b)3., F.S., lists an offense that will prohibit a defendant from entering a treatment-based drug court program: the defendant has been charged with a crime involving violence which includes, but is not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence.

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<sup>8</sup> Office of the State Courts Administrator, *SB 508 Judicial Impact Statement*, (March 3, 2023) <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=34341>.

As discussed above, pursuant to s. 948.08(6)(c)1., F.S., the court or a state attorney may deny a defendant entry into the program if he or she was previously offered admission to the program and the defendant rejected that offer on the record.

### **Mental Health Court Program Eligibility**

Section 948.08(8)(a), F.S., lists the requirements for a defendant to be eligible for voluntary admission into a pretrial mental health court program. The defendant must be identified as having a mental illness, not have been convicted of a felony, but is charged with certain crimes.

### **Pretrial Substance Abuse Education and Treatment Intervention Program for Misdemeanor Offenses (Section 3)**

Section 948.16(1)(a), F.S., establishes the criteria for a defendant to participate in a misdemeanor pretrial substance abuse education and treatment program, misdemeanor pretrial veterans treatment intervention program, and a misdemeanor pretrial mental health court program. To qualify for admission into the substance abuse education and treatment intervention, a defendant may not have been convicted of a felony. In addition to being identified as having a substance abuse problem, these offenses, for which the defendant is currently charged, will permit him or her to be considered for admission into the program:

- A nonviolent, nontraffic-related misdemeanor;
- A misdemeanor possession of a controlled substance or drug paraphernalia under chapter 893, F.S.;
- Prostitution under s. 796.07, F.S.;
- Possession of alcohol while under 21 years of age under s. 562.111, F.S.;
- Possession of a controlled substance without a valid prescription under s. 499.03, F.S.

### **III. Effect of Proposed Changes:**

The bill amends three statutes dealing with pretrial intervention programs. The bill makes the eligibility criteria provisions more consistent with each other, revises the data reporting requirements for treatment-based drug court programs, and expands the current eligibility requirements for admission into a misdemeanor pretrial treatment-based drug court program.

#### **Treatment-based Drug Court Programs (Sections 1 & 2)**

##### ***Admission for Participation is Expanded***

Under existing law, a defendant may be denied an opportunity to be admitted into a pre-trial treatment-based drug court program by the court or the prosecution if he or she previously rejected the opportunity to do so before trial. Under the bill, persons who reject opportunities to participate are no longer subject to being barred from participation for that reason.

##### ***Data Reporting Requirements Shift from Circuit Responsibility to the Program***

The bill adds a new provision that removes the responsibility of managing the collection of data from the circuits and places the responsibility on the treatment-based drug court program. In addition, each program is now required to annually report the programmatic information and the

aggregate data regarding the number of admissions and terminations, by type of termination, to the OSCA. The collection and reporting requirements will be consistent with the requirements placed on mental health court program reporting requirements.

## **Pretrial Intervention Program for *Felony* Offenses (Section 2)**

### ***Substance Abuse Education and Treatment Intervention Program***

#### Duration Revised

The substance abuse education and treatment intervention program mandatory duration period “of not less than 1 year” is deleted and the court is given discretion as to how long a defendant needs to remain in the program, based upon his or her clinical needs. This makes the duration period consistent with the duration, described in s. 948.08(8)(a), F.S., for participation in a mental health court program.

#### Criteria – Previous Violent Crime Criteria Deleted

The bill deletes the language that excluded a defendant from participation for having been charged with a crime of violence. As revised, a defendant is excluded from participating only if he or she is currently charged with a crime of violence. By making this change, the statute becomes consistent with eligibility requirements contained in other problem-solving court statutes.

### ***Mental Health Court Program Eligibility***

The bill is amended to delete the provision that a defendant seeking admission to a pretrial mental health court program has not been convicted of a felony. This will expand the option for more people to enter the program who would previously be ineligible. The language would also be consistent with the criteria for entering a pretrial treatment-based drug court program.

## **Misdemeanor Pretrial Substance Abuse Education and Treatment Intervention Program (Section 3)**

The bill expands who may be eligible for a misdemeanor pretrial substance abuse education and treatment intervention program. By eliminating the qualifying offenses currently listed in statute and opening the criteria to any person charged with a misdemeanor, but who has not previously been convicted of a felony, more people will be eligible to participate in the program. This would make the eligibility criteria consistent with the criteria for pretrial misdemeanor veterans programs and mental health programs.

### **“Program Administrator” Terminology Change for Consistency with the Mental Health Statute**

The term “program administrator” is added in ss. 948.08(6)(e), 948.08(7)(c), and 948.16(4), F.S., for consistent referencing to the person in charge of the problem-solving court programs in these statutes.

The effective date of the bill is July 1, 2023.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The OSCA states that the changes to the data reporting requirements for the treatment-based drug court programs will reduce the workloads for the judicial circuits and the OSCA. Additionally, by reducing how long a defendant must participate in the drug court program from the current 1-year period to a time based on his or her clinical needs would possibly reduce the courts' workload if participants complete the program in less than 1 year. Finally, the OSCA does not expect the proposals that will increase the number of people who may become eligible to participate in the programs to increase court workload because admissions are discretionary and the capacity for the number of participants is limited.<sup>9</sup>

**VI. Technical Deficiencies:**

None.

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<sup>9</sup> Office of the State Courts Administrator, *SB 508 Judicial Impact Statement*, (March 3, 2023) <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=34341>

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 397.334, 948.08, and 948.16

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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