

**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: CS/SB 1140

INTRODUCER: Criminal Justice Committee and Senator Gruters

SUBJECT: Criminal Offender Substance Abuse Pilot Program

DATE: April 9, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wyant</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Pre-meeting</b>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1140 creates s. 948.22, F.S., to establish a substance abuse accountability pilot program in Hillsborough County from October 1, 2025, to September 30, 2027.

The bill requires the court to designate a subset of identified eligible persons for such program. A person is eligible if such person is convicted of a felony or first degree misdemeanor, and placed on probation, for which abstaining from alcohol or a controlled substance is a condition of such release. Individuals will be randomly assigned to participate in the program and no more than 150 offenders may participate at any one time. A defendant must be explicitly advised he or she may be randomly assigned to the program, and all terms and conditions must be explained prior to entering any plea agreement that would make such person eligible. A defendant will remain in the program for the same length of time as the term of probation. Upon successful completion of half the term of participation in the program, such person is eligible for early termination of probation and participation in the program.

The bill requires the sheriff of Hillsborough County, in consultation with the Chief Judge of the Thirteenth Judicial Circuit, the state attorney, and the Department of Corrections (DOC), to design and implement the pilot program. The program must include specified elements.

The program must include a program coordinator, whose duties must include identifying and hiring personnel to ensure efficient administration of the program. The sheriff may make subgrants to any appropriate agency for hiring personnel.

A court may not order participation in the program in lieu of mandatory placement of an ignition interlock device. The court may reduce or eliminate program fees for a participant who has been declared indigent.

By June 30, 2028, the Attorney General must complete an evaluation of the program's effectiveness, determine the metrics to be evaluated, and may contract with a third party to conduct any program evaluations. A report on the pilot program, including the number of participants, the number of program violations, and the number of successful program completions, must be delivered to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 30, 2028.

The bill appropriates the nonrecurring sum of \$2.5 million from the Opioid Settlement Trust Fund to the sheriff of Hillsborough County. See Section V., Fiscal Impact Statement.

The bill takes effect on July 1, 2025.

## **II. Present Situation:**

As of July 2024, 48 adult drug courts, 14 juvenile drug courts, 13 dependency drug courts, and four DUI courts are in operation in Florida. Florida's drug courts admitted 3,347 participants in 2023.<sup>1</sup>

### **Conditions of Release**

As a condition of pretrial release, the defendant must comply with all conditions of pretrial release imposed by the court. The court may order a defendant to refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner.<sup>2</sup> The court may also order a defendant to undergo medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution for that purpose.<sup>3</sup>

Section 907.041, F.S., provides a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release, unless such person is charged with a dangerous crime as defined in s. 907.041(5), F.S. or such person is an unauthorized alien charged with a forcible felony as defined in s. 907.041(6). A person charged with a dangerous crime shall be released on monetary conditions if such conditions are necessary to:<sup>4</sup>

- Assure the presence of the person at trial or at other proceedings;
- Protect the community from risk of physical harm to persons;
- Assure the presence of the accused at trial;
- Assure the integrity of the judicial process.

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<sup>1</sup> Florida Courts, Office of Problem-Solving Courts, *Drug Courts*, available at: <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts/Drug-Courts> (last visited April 4, 2025).

<sup>2</sup> Section 903.047(1)(c)7., F.S.

<sup>3</sup> Section 903.047(1)(c)8., F.S.

<sup>4</sup> Section 907.041(3)(a), F.S.

***Probation, Community Control, and Conditional Release***

A court may sentence an offender to probation or community control in lieu of, or in addition to, incarceration.<sup>5</sup> Probation is a form of community supervision requiring specified contacts with a probation officer and other terms and conditions, including, but not limited to, a person:

- Submitting to random testing as directed by his or her probation officer or the professional staff of the treatment center where he or she is receiving treatment to determine the presence or use of alcohol or controlled substances;
- Being prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician, an advanced practice registered nurse, or a physician assistant; and
- Remaining away from places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.<sup>6</sup>

Community control is a more intensive form of supervision involving an individualized program that restricts an offender's movement within the community, home, or noninstitutional residential placement.<sup>7</sup> Several standard conditions of probation or community control apply automatically, including requirements to report to a probation officer as directed and to live without violating any law. The court may also impose special conditions of probation or community control as it considers proper. Following incarceration, offenders who qualify under Florida's "Conditional Release Program Act" may be released under supervision subject to specified terms and conditions determined by the Florida Commission on Offender Review (FCOR).<sup>8</sup>

***Alternative Sanctioning Program***

Under s. 948.06(9), F.S., each judicial circuit must establish an alternative sanctioning program (ASP), and the chief judge may, by administrative order, define additional sanctions or eligibility criteria and specify the process for reporting technical violations through the ASP. Any sanctions recommended for imposition through an ASP must be submitted to the court by the probation officer for approval before imposition.<sup>9</sup>

The participation of a probationer or an offender on community control in an ASP is voluntary, and such participant may waive or discontinue participation in the program at any time before the court imposes a recommended sanction.<sup>10</sup>

A probationer or offender on community control who commits a technical violation that is eligible for an ASP may:

- Waive participation in the program, in which case the probation officer may submit a violation report, affidavit, and warrant to the court; or

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<sup>5</sup> Section 948.01, F.S. and Section 948.012

<sup>6</sup> Section 948.03(1), F.S.

<sup>7</sup> Section 948.001(3), F.S.

<sup>8</sup> FCOR is authorized under s. 8(c), Art. IV of the State Constitution and responsible for granting and revoking parole and investigating applications for clemency as directed by the Governor and Cabinet. Section 20.32, F.S.

<sup>9</sup> Section 948.06(9)(a), F.S.

<sup>10</sup> Section 948.06(9)(g), F.S.

- Elect to participate in the program after receiving written notice of an alleged technical violation and disclosure of the evidence against him or her, and admit the technical violation, agree to comply with the probation officer's recommended sanction if subsequently ordered by the court, and agree to waive the right to:
  - Be represented by legal counsel;
  - Require the state to prove his or her guilt before a neutral and detached hearing body;
  - Subpoena witnesses and present to a judge evidence in his or her defense;
  - Confront and cross-examine adverse witnesses; and,
  - Receive a written statement from a judge as to the evidence relied on and the reasons for the sanction imposed.<sup>11</sup>

Additionally, if the probationer or offender on community control admits to committing the technical violation and agrees with the probation officer's recommended sanction, the probation officer must, before imposing the sanction, submit the recommended sanction to the court with documentation reflecting the probationer's admission to the technical violation and agreement with the recommended sanction.

The court may impose the recommended sanction or direct the DOC to submit a violation report, affidavit, and warrant to the court.<sup>12</sup> If a probationer or offender on community control waives or discontinues participation in the program or fails to successfully complete all alternative sanctions within 90 days after imposition or within the timeframe specified in the agreed-upon sanction, the probation officer may submit a violation report, affidavit, and warrant to the court. A prior admission by the probationer or offender on community control to a technical violation may not be used as evidence in subsequent proceedings.<sup>13</sup>

Violations under an ASP are classified as “low” or “moderate.” In relevant part, a “low-risk” violation includes:

- A positive drug or alcohol test result;
- Failure to report to the probation office;
- Failure to report a change in address or other required information;
- Failure to attend a required class, treatment or counseling session, or meeting;
- Failure to submit to a drug or alcohol test;
- A violation of curfew;
- Failure to meet a monthly quota on any required probation condition, including, but not limited to, making restitution payments, paying court costs, or completing community service hours;
- Leaving the county without permission;
- Failure to report a change in employment;
- Associating with a person engaged in criminal activity; or,
- Any other violation as determined by administrative order of the chief judge of the circuit.<sup>14</sup>

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<sup>11</sup> Section 948.06(9)(h), F.S.

<sup>12</sup> Section 948.06(9)(i), F.S.

<sup>13</sup> Section 948.06(9)(j), F.S.

<sup>14</sup> Section 948.06(9)(b), F.S.

For a first or second “low-risk” violation within the current term of supervision, a probation officer may offer an eligible probationer one or more of the following as an alternative sanction:

- Up to 5 days in the county jail;
- Up to 50 additional community service hours;
- Counseling or treatment;
- Support group attendance;
- Drug testing;
- Loss of travel or other privileges;
- Curfew for up to 30 days; or,
- House arrest for up to 30 days.<sup>15</sup>

#### Administrative Probation

Under s. 948.013, F.S., the DOC may transfer an offender to administrative probation if he or she presents a low risk of harm to the community and has satisfactorily completed at least half of his or her probation term. The DOC may establish procedures for transferring an offender to administrative probation, but specified offenders are ineligible for placement on administrative probation, including individuals who were sentenced to or serving a term of probation or community control for:

- Kidnapping or false imprisonment under s. 787.01, F.S., or s. 787.02, F.S., where the victim is under age 13 and the defendant is not the victim's parent;
- Luring or enticing a child under s. 787.025, F.S.;
- Human trafficking under s. 787.06(3)(g), F.S.;
- Sexual battery under ch. 794, F.S.;
- Former s. 796.03, F.S.;
- Lewd or lascivious offenses against or in the presence of a person under 16 years of age, under s. 800.04, F.S.;
- Lewd or lascivious battery against an elderly or disabled person under s. 825.1025(2)(b), F.S.;
- Sexual performance by a child or child pornography under s. 827.071, F.S.;
- Obscenity under s. 847.0133, F.S.;
- Online solicitation of a minor, computer pornography, traveling to meet a minor, or prohibited computer usage under s. 847.0135, F.S.;
- Buying or selling minors under s. 847.0145, F.S.; or,
- Offenses related to sexual predator and sexual offender status under s. 775.21(4)(a)1.a. or b., F.S. or s. 943.0435(1)(h)1.a., F.S. committed on or after October 1, 2017.

#### ***Problem Solving Courts***

Diversion is authorized in both pre-arrest and post-arrest actions. There are several different types of diversion programs, sometimes referred to as “problem-solving courts” such as pretrial intervention, drug diversion, traffic diversion, and juvenile diversion.

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<sup>15</sup> Section 948.06(9)(e), F.S.

In 1989, Florida started the national problem-solving court movement by creating the first drug court in the United States in Miami-Dade County. Other types of problem-solving court dockets subsequently followed, using the drug court model, and were implemented to assist individuals with a range of problems such as drug addiction, mental illness, domestic violence, child abuse neglect, and homelessness.<sup>16</sup>

Problem-solving courts offer a specialized court docket and include, but are not limited to, the following elements:

- Problem solving team, a broad-based team of justice system stakeholders including judges, case managers, prosecutors, defense attorneys, treatment professionals, law enforcement officers, correctional personnel, and guardians ad litem;
- Non-adversarial approach, a commitment to offering alternatives to the traditional adversarial litigation process;
- Continuum of individualized treatment services, an array of evidence-based services designed to identify and meet the unique needs of each participant;
- Judicial leadership and interaction, a judge who leads the problem-solving team and monitors the court case using an increased number of hearings for monitoring compliance and progress; and,
- Response to participant compliance, the use of graduated, individualized, and coordinated responses, both for incentives and sanctions, to promote both public safety and participant's success.<sup>17</sup>

### ***Hillsborough County Adult Drug Recovery Court***

The Adult Drug Recovery Court is designed to treat and assist those individuals whose drug and alcohol problems have resulted in being charged with a third degree felony.<sup>18</sup>

To be eligible, individuals must score less than 60 points on the Criminal Conduct Scoresheet and agree to receiving treatment. Drug offender probation usually involves drug treatment, increased contact with the probation officer, more frequent urine screens, and support group attendance, if recommended. Relapse or other violations of the terms of probation do not automatically result in a prison sentence. The court is well aware of the difficulties of establishing sobriety and is willing to work with individuals who are making the effort to stay clean. Violations normally result in a re-evaluation with another, usually more intense, treatment episode.<sup>19</sup>

### ***Hillsborough County Drug Pretrial Intervention***

The Adult Pretrial Intervention Court (DPTI) allows first and second time drug offenders the opportunity to avoid having a felony conviction on their record. After completing a background

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<sup>16</sup> Florida Courts, Office of Problem-Solving Courts, *Background*, available at: <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts> (last visited April 4, 2025).

<sup>17</sup> Florida Courts, Office of Problem-Solving Courts, *Defining Elements*, available at: <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts> (last visited April 4, 2025).

<sup>18</sup> Thirteenth Judicial Circuit, Hillsborough County, *About Problem Solving Courts*, available at: <https://www.fljud13.org/CourtPrograms/ProblemSolvingCourts/AboutProblemSolvingCourts.aspx> (last visited April 4, 2025).

<sup>19</sup> *Id.* Adult Drug Court, FAQs

check, the defendant signs a contract in which he or she agrees to complete a drug treatment program and the State Attorney's Office agrees to drop the charges upon successful completion of that program.<sup>20</sup>

Any person over the age of 18 who is a first or second time drug offender, who has not had previous pretrial intervention episodes is eligible provided they waive their right to a speedy trial, admit to having a drug problem, and express a desire for treatment. Treatment involves group and individual counseling, urine screens, support group attendance, and acupuncture. The frequency of treatment will be dependent on an individual's needs and resources, however, the amount of treatment gradually decreases as the individual progresses. Defendants are also required to meet regularly with a DOC probation officer and attend case reviews in front of the judge.<sup>21</sup>

To enter into such program, the defendant must agree to submit to random urine, breath, and other drug and alcohol testing no less than two times per week throughout the participation in the program or as otherwise directed by the court. Additionally, the defendant must agree to pay specified costs of the DPTI program.<sup>22</sup>

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

The bill creates s. 948.22, F.S., to create a substance abuse accountability pilot program in Hillsborough County from October 1, 2025, to September 30, 2027.

The bill requires the court to identify and designate a subset of eligible persons for such program. A person is eligible if such person is:

- Convicted of a felony or first degree misdemeanor;
- Placed on probation; and
- Required to abstain from alcohol or a controlled substance as a condition of such release.

Individuals will be randomly assigned to participate in the program. All persons deemed eligible have the same probability of assignment, and no more than 150 offenders may participate at any one time. A defendant must be explicitly advised he or she may be randomly assigned to the program and all terms and conditions must be explained prior to entering any plea agreement that would make such person eligible.

The bill requires the sheriff of Hillsborough County, in consultation with the Chief Judge of the Thirteenth Judicial Circuit, the state attorney, and the DOC, to design and implement the pilot program. The program must include the following elements:

- The sheriff must manage the supervision of all participants during their participation in the program. Upon discharge, the participant must be managed in accordance with current law or for any remaining term of supervision.

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.* Drug Pretrial Intervention, FAQs

<sup>22</sup> Thirteenth Judicial Circuit Court, *DPTI Program Agreement*, available at:

[https://www.fljud13.org/Portals/0/Forms/word\\_docs/ProblemSolvingCourts/JudgeRice/DPTIAGRMNTFINALPlusExhibitA\\_042921.docx?ver=2021-05-03-103429-923](https://www.fljud13.org/Portals/0/Forms/word_docs/ProblemSolvingCourts/JudgeRice/DPTIAGRMNTFINALPlusExhibitA_042921.docx?ver=2021-05-03-103429-923) (last visited April 4, 2025).

- Participants must attend an in-person judicial hearing at which the judge must explain to the participants all program conditions and sanctions for noncompliance. A defendant will remain in the program for the same length of time as the term of probation. Upon successful completion of half the term of participation in the program, such person is eligible for early termination of probation and participation in the program.
- A participant ordered to abstain from alcohol must be tested twice per day by mobile breath alcohol testing approximately 12 hours apart. Testing must be completed in person at Hillsborough County Sheriff's Office or an alternative location designated by the sheriff's office. A court may reduce the frequency of testing to once per day for a participant who has zero adjudicated program violations for 60 consecutive days.
- A participant ordered to abstain from controlled substances must be tested randomly, at least twice every seven days, with no fewer than 60 hours between tests. Testing must be completed at Hillsborough County Sheriff's Office or an alternate location designated by the sheriff's office, by a method determined by the sheriff. A court may reduce the frequency of testing to once per week for a participant who has zero adjudicated program violations for 6 consecutive months.
- Missed tests, failed tests, and alerts by a continuous monitoring device of a positive test result is probable cause that a participant has violated the program. If such probable cause exists, the participant must be arrested at the earliest opportunity and held in county jail until an appearance before a judge no later than 24 hours after the participant's arrest.
- Upon a judicial finding that a participant violated the program, the participant must serve 24 hours in county jail, with credit for time served between the arrest and the judicial finding. Penalties may not be waived or modified.
- A participant arrested and held, and whose alleged violation is not adjudicated within 24 hours of the arrest must be released at the earliest possible opportunity. Release does not terminate the person's participation in the program.
- Upon five adjudicated violations of program conditions, a court may discharge the participant from the program and sentence the person as authorized by law. The court is not precluded from modifying the conditions of a participant's supervision, including revocation, upon any other violation of supervision conditions.
- Participants must pay all fees associated with participation in the program. However, a court may reduce or eliminate program fees for a participant who has been declared indigent.
- If a court determines that in-person mobile breath alcohol testing is unreasonably burdensome to a participant, the participant may instead be ordered to wear a continuous monitoring device capable of detecting and signaling the presence of alcohol.

The program must include a program coordinator, whose duties must include identifying and hiring personnel to ensure efficient administration of the program. The sheriff may make subgrants to any appropriate agency for hiring personnel.

A court may not order participation in the program in lieu of mandatory placement of an ignition interlock device.

By June 30, 2028, the Attorney General must complete an evaluation of the program's effectiveness, determine the metrics to be evaluated, and may contract with a third party to conduct any program evaluations. A report on the pilot program, including the number of



participants, the number of program violations, and the number of successful program completions, must be delivered to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 30, 2028.

Additionally, the bill provides that for Fiscal Year 2025-2026, a nonrecurring sum of \$2.5 million shall be appropriated from the Opioid Settlement Trust Fund to the sheriff of Hillsborough County. Funds may be used for any expenses related to establishing and administering the program through September 30, 2027, including personnel, equipment, training and technical assistance, payments for jail space, data collection, program evaluations, and program fees for indigent participants.

The bill takes effect on July 1, 2025.

#### **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.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill appropriates the nonrecurring sum of \$2.5 million from the Opioid Settlement Trust Fund to the sheriff of Hillsborough County. The funds may be used for expenses

relating to establishing and administering the program including program fees for indigent participants. The bill requires participants to pay all fees associated with participation in the program. However, a court may reduce or eliminate program fees for a participant who has been declared indigent.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 948.22 of the Florida Statutes.

**IX. Additional Information:**

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

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

**CS by Criminal Justice on April 1, 2025:**

This committee substitute:

- Modifies the eligibility of the program to include only persons convicted of a felony or first degree misdemeanor and who are placed on probation.
- Requires a person must be explicitly advised he or she may be randomly assigned to the program and all terms and conditions must be explained prior to entering any plea agreement making such person eligible.
- Provides a person will remain in the program for the same length of time as the term of probation and allows for a person to early terminate probation and participation in the program after successful completion of half the term of participation in the program.
- Allows a court to eliminate program fees for a participant who has been declared indigent.
- Requires reporting to include the number of program participants, the number of program violations, and the number of successful program completions.

**B. Amendments:**

None.