

Committee Substitute for House Bill No. 199

An act relating to substance abuse treatment programs; providing goals for treatment-based drug court programs; requiring judicial circuits to establish a model of treatment-based drug court programs for certain purposes; providing criteria; providing legislative intent; providing certain principles for operating drug court programs; providing for inclusion of certain programs in such drug court programs; amending s. 910.035, F.S.; providing for transferring persons eligible for participation in drug court treatment programs to other jurisdictions under certain circumstances; providing criteria, requirements, and limitations; amending s. 948.08, F.S.; adding persons charged with specified crimes to the list of persons eligible for admission into a pretrial substance abuse program; creating s. 948.16, F.S.; providing for a misdemeanor pretrial substance abuse education and treatment intervention program; providing for admitting certain persons to the program under certain circumstances; providing for disposition of persons in the program; providing criteria; providing contracting requirements for entities providing such a program; providing an effective date.

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

Section 1. (1) It is the intent of the Legislature to implement treatment-based drug court programs in each judicial circuit in an effort to reduce crime and recidivism, abuse and neglect cases, and family dysfunction by breaking the cycle of addiction which is the most predominant cause of cases entering the justice system. The Legislature recognizes that the integration of judicial supervision, treatment, accountability, and sanctions greatly increases the effectiveness of substance abuse treatment. The Legislature also seeks to ensure that there is a coordinated, integrated, and multidisciplinary response to the substance abuse problem in this state, with special attention given to creating partnerships between the public and private sectors and to the coordinated, supported, and integrated delivery of multiple-system services for substance abusers, including a multiagency team approach to service delivery.

(2) Each judicial circuit shall establish a model of a treatment-based drug court program under which persons in the justice system assessed with a substance abuse problem will be processed in such a manner as to appropriately address the severity of the identified substance abuse problem through treatment plans tailored to the individual needs of the participant. These treatment-based drug court program models may be established in the misdemeanor, felony, family, delinquency, and dependency divisions of the judicial circuits. It is the intent of the Legislature to encourage the Department of Corrections, the Department of Children and Family Services, the Department of Juvenile Justice, the Department of Health, the Department of Law Enforcement, and such other agencies, local governments, law enforcement agencies, and other interested public or private sources to support the creation and establishment of these problem-solving court programs. Participa-

tion in the treatment-based drug court programs does not divest any public or private agency of its responsibility for a child or adult, but allows these agencies to better meet their needs through shared responsibility and resources.

(3) The treatment-based drug court programs shall include therapeutic jurisprudence principles and adhere to the following 10 key components, recognized by the Drug Courts Program Office of the Office of Justice Programs of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:

(a) Drug court programs integrate alcohol and other drug treatment services with justice system case processing.

(b) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

(c) Eligible participants are identified early and promptly placed in the drug court program.

(d) Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

(e) Abstinence is monitored by frequent testing for alcohol and other drugs.

(f) A coordinated strategy governs drug court program responses to participants' compliance.

(g) Ongoing judicial interaction with each drug court program participant is essential.

(h) Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.

(i) Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.

(j) Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

(4) Treatment-based drug court programs may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.306, Florida Statutes.

(5)(a) The Florida Association of Drug Court Program Professionals is created. The membership of the association may consist of drug court program practitioners who comprise the multidisciplinary drug court program team, including, but not limited to, judges, state attorneys, defense counsel, drug court program coordinators, probation officers, law enforcement officers, members of the academic community, and treatment professionals. Membership in the association shall be voluntary.

(b) The association shall annually elect a chair whose duty is to solicit recommendations from members on issues relating to the expansion, operation, and institutionalization of drug court programs. The chair is responsible for providing the association's recommendations to the Supreme Court Treatment-Based Drug Court Steering Committee, and shall submit a report each year, on or before October 1, to the steering committee.

Section 2. Subsection (5) is added to section 910.035, Florida Statutes, to read:

910.035 Transfer from county for plea and sentence.—

(5) Any person eligible for participation in a drug court treatment program pursuant to s. 948.08(6) may be eligible to have the case transferred to a county other than that in which the charge arose if the drug court program agrees and if the following conditions are met:

(a) The authorized representative of the drug court program of the county requesting to transfer the case shall consult with the authorized representative of the drug court program in the county to which transfer is desired.

(b) If approval for transfer is received from all parties, the trial court shall enter a transfer order directing the clerk to transfer the case to the county which has accepted the defendant into its drug court program.

(c) The transfer order shall include a copy of the probable cause affidavit, any charging documents in the case, all reports, witness statements, test results, evidence lists, and other documents in the case, the defendant's mailing address and phone number, and the defendant's written consent to abide by the rules and procedures of the receiving county's drug court program.

(d) After the transfer takes place, the clerk shall set the matter for a hearing before the drug court program judge and the court shall ensure the defendant's entry into the drug court program.

(e) The jurisdiction to which the case has been transferred shall dispose of the case pursuant to s. 948.08(6). If the defendant does not complete the drug court program successfully, the case shall be prosecuted as determined by the state attorneys of the sending and receiving counties.

Section 3. Paragraph (a) of subsection (6) of section 948.08, Florida Statutes, is amended to read:

(6)(a) Notwithstanding any provision of this section, a person who is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, ~~tampering with evidence~~, solicitation for purchase, obtaining a prescription by fraud, and who has not been charged with a crime, involving violence, including but not limited to, ~~murder, sexual battery, robbery, car jacking, home-invasion robbery, or any other crime involving violence~~ and who has not previously been convicted of a felony nor been admitted to a felony pretrial program referred to in this

section, is eligible for admission into a pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period of not less than 1 year in duration, upon motion of either party or the courts own motion, except:

1. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial and the defendant rejected that offer on the record, then the court or the state attorney may deny the defendant's admission to such a program.

2. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

(7) The chief judge in each circuit may appoint an advisory committee for the pretrial intervention program composed of the chief judge or his or her designee, who shall serve as chair; the state attorney, the public defender, and the program administrator, or their designees; and such other persons as the chair deems appropriate. The advisory committee may not designate any defendant eligible for a pretrial intervention program for any offense not listed under section 948.08(6)(a) without the state attorney's recommendation and approval. The committee may also include persons representing any other agencies to which persons released to the pretrial intervention program may be referred.

Section 4. Section 948.16, Florida Statutes, is created to read:

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

(1) A person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period based on the program requirements and the treatment plan for the offender, upon motion of either party or the court's own motion, except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into the pretrial intervention program.

(2) At the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges. The court shall

determine, by written finding, whether the defendant successfully completed the pretrial intervention program.

(a) If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution.

(b) The court shall dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.

(3) Any public or private entity providing a pretrial substance abuse education and treatment program under this section shall contract with the county or appropriate governmental entity. The terms of the contract shall include, but not be limited to, the requirements established for private entities under s. 948.15(3).

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor May 17, 2001.

Filed in Office Secretary of State May 17, 2001.