

CHAPTER 2023-191

Senate Bill No. 508

An act relating to problem-solving courts; amending s. 397.334, F.S.; revising the responsibilities of coordinators of treatment-based drug court programs; requiring such programs to collect specified data and information for certain purposes; requiring such programs to annually report certain information and data to the Office of the State Courts Administrator; conforming provisions to changes made by the act; amending s. 948.08, F.S.; authorizing courts to determine how long a person may be admitted into certain programs; revising admission requirements for certain programs; conforming provisions to changes made by the act; amending s. 948.16, F.S.; revising eligibility requirements for voluntary admission into certain substance abuse programs; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsections (2) and (6) of section 397.334, Florida Statutes, are amended to read:

397.334 Treatment-based drug court programs.—

(2) Entry into any pretrial treatment-based drug court program shall be voluntary. When ~~neither s. 948.08(6)(c)1. does not apply nor 2. applies~~, the court may order an eligible individual to enter into a pretrial treatment-based drug court program only upon written agreement by the individual, which shall include a statement that the individual understands the requirements of the program and the potential sanctions for noncompliance.

(6)(a) Contingent upon an annual appropriation by the Legislature, each judicial circuit shall establish, at a minimum, one coordinator position for the treatment-based drug court program within the state courts system to coordinate the responsibilities of the participating agencies and service providers. Each coordinator shall provide direct support to the treatment-based drug court program by providing coordination between the multi-disciplinary team and the judiciary, providing case management, monitoring compliance of the participants in the treatment-based drug court program with court requirements, and managing the collection of data for ~~providing~~ program evaluation and accountability.

(b) ~~Each treatment-based drug court program shall collect circuit shall report sufficient client-level data and programmatic information data to the Office of State Courts Administrator annually for purposes of program evaluation. Client-level data includes include primary offenses that resulted in the treatment-based drug court program referral or sentence, treatment compliance, completion status and reasons for failure to complete, offenses~~

committed during treatment and the sanctions imposed, frequency of court appearances, and units of service. Programmatic information includes data include referral and screening procedures, eligibility criteria, type and duration of treatment offered, and residential treatment resources. Each treatment-based drug court program must annually report the programmatic information and aggregate data on the number of treatment-based drug court program admissions and terminations by type of termination to the Office of the State Courts Administrator.

Section 2. Paragraphs (b), (c), and (e) of subsection (6), paragraph (c) of subsection (7), and paragraph (a) of subsection (8) of section 948.08, Florida Statutes, are amended to read:

948.08 Pretrial intervention program.—

(6)

(b) Notwithstanding any provision of this section, a person is eligible for voluntary admission into a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, approved by the chief judge of the circuit, for a period to be determined by the court, based on the clinical needs of the defendant of not less than 1 year in duration, if he or she:

1. Is identified as having a substance abuse problem and is amenable to treatment.

2. Is charged with a nonviolent felony.

3. ~~Is not also Has never been~~ charged with a crime involving violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence.

4. Has two or fewer felony convictions, provided that the prior convictions are for nonviolent felonies.

(c) Upon motion of either party or the court's own motion, and with the agreement of the defendant, the court shall admit an eligible person into a pretrial substance abuse education and treatment intervention program, except:

1. ~~If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time before trial and the defendant rejected that offer on the record, 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.

~~2.3.~~ If the defendant has two or fewer prior felony convictions as provided in subparagraph (b)4., the court, in its discretion, may deny admission to such a program.

(e) At the end of the pretrial intervention period, the court shall consider the recommendation of the program administrator pursuant to subsection (5) and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334(4), 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, which may include substance abuse treatment programs offered by licensed service providers as defined in s. 397.311 or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(7)

(c) At the end of the pretrial intervention period, the court shall consider the recommendation of the ~~treatment~~ program administrator and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. 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, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(8)(a) Notwithstanding any provision of this section, a defendant is eligible for voluntary admission into a pretrial mental health court program established pursuant to s. 394.47892 and approved by the chief judge of the circuit for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court’s own motion if:

1. The defendant is identified as having a mental illness; and
2. ~~The defendant has not been convicted of a felony; and~~
3. The defendant is charged with:

- a. A nonviolent felony that includes a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08;
- b. Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the defendant's participation;
- c. Battery on a law enforcement officer under s. 784.07, if the law enforcement officer and state attorney consent to the defendant's participation; or
- d. Aggravated assault, if the victim and state attorney consent to the defendant's participation.

Section 3. Paragraph (a) of subsection (1) and subsection (4) of section 948.16, Florida Statutes, are amended to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program; misdemeanor pretrial mental health court program.—

(1)(a) A person who is charged with a ~~nonviolent, nontraffic-related~~ misdemeanor and identified as having a substance abuse problem ~~or who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, prostitution under s. 796.07, possession of alcohol while under 21 years of age under s. 562.111, or possession of a controlled substance without a valid prescription under s. 499.03,~~ and who has not previously been convicted of a felony, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, 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.

(4) At the end of the pretrial intervention period, the court shall consider the recommendation of the ~~treatment~~ program administrator 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. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334(4) or by the veterans' treatment intervention team, 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. The court shall dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.

Section 4. This act shall take effect July 1, 2023.

Approved by the Governor June 5, 2023.

Filed in Office Secretary of State June 5, 2023.