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1
2 An act relating to mental health services in the
3 criminal justice system; amending ss. 39.001, 39.507,
4 and 39.521, F.S.; conforming provisions to changes
5 made by the act; amending s. 394.4655, F.S.; defining
6 the terms "court" and "criminal county court" for
7 purposes of involuntary outpatient placement;
8 conforming provisions to changes made by act; amending
9 ss. 394.4599 and 394.463, F.S.; conforming provisions
10 to changes made by act; conforming cross-references;
11 amending s. 394.455 and 394.4615, F.S.; conforming
12 cross-references; amending s. 394.47891, F.S.;
13 expanding eligibility for military veterans and
14 servicemembers court programs; creating s. 394.47892,
15 F.S.; authorizing the creation of treatment-based
16 mental health court programs; providing for
17 eligibility; providing program requirements; providing
18 for an advisory committee; amending s. 790.065, F.S.;
19 conforming a provision to changes made by this act;
20 amending s. 910.035, F.S.; revising the definition of
21 the term "problem-solving court"; creating s. 916.185,
22 F.S.; creating the Forensic Hospital Diversion Pilot
23 Program; providing legislative findings and intent;
24 providing definitions; authorizing the Department of
25 Children and Families to implement a Forensic Hospital
26 Diversion Pilot Program in specified judicial



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27 | circuits; authorizing the department to request
28 | specified budget amendments; providing for eligibility
29 | for the program; providing legislative intent
30 | concerning training; authorizing rulemaking; amending
31 | s. 948.001, F.S.; defining the term "mental health
32 | probation"; amending ss. 948.01 and 948.06, F.S.;
33 | authorizing courts to order certain offenders on
34 | probation or community control to postadjudicatory
35 | mental health court programs; amending s. 948.08,
36 | F.S.; expanding eligibility requirements for certain
37 | pretrial intervention programs; providing for
38 | voluntary admission into a pretrial mental health
39 | court program; creating s. 916.185, F.S.; creating the
40 | Forensic Hospital Diversion Pilot Program; providing
41 | legislative findings and intent; providing
42 | definitions; requiring the Department of Children and
43 | Families to implement a Forensic Hospital Diversion
44 | Pilot Program in specified judicial circuits;
45 | providing for eligibility for the program; providing
46 | legislative intent concerning training; authorizing
47 | rulemaking; amending ss. 948.01 and 948.06, F.S.;
48 | providing for courts to order certain defendants on
49 | probation or community control to postadjudicatory
50 | mental health court programs; amending s. 948.08,
51 | F.S.; expanding eligibility requirements for certain
52 | pretrial intervention programs; providing for



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53 | voluntary admission into pretrial mental health court
54 | program; amending s. 948.16, F.S.; expanding
55 | eligibility of veterans for a misdemeanor pretrial
56 | veterans' treatment intervention program; providing
57 | eligibility of misdemeanor defendants for a
58 | misdemeanor pretrial mental health court program;
59 | amending s. 948.21, F.S.; expanding veterans'
60 | eligibility for participating in treatment programs
61 | while on court-ordered probation or community control;
62 | amending s. 985.345, F.S.; authorizing delinquency
63 | pretrial mental health court intervention programs for
64 | certain juvenile offenders; providing for disposition
65 | of pending charges after completion of the program;
66 | authorizing expunction of specified criminal history
67 | records after successful completion of the program;
68 | reenacting s. 397.334(3)(a) and (5), F.S., relating to
69 | treatment-based drug court programs, to incorporate
70 | the amendments made by the act to ss. 948.01 and
71 | 948.06, F.S., in references thereto; reenacting s.
72 | 948.012(2)(b), F.S., relating to split sentence
73 | probation or community control and imprisonment, to
74 | incorporate the amendment made by the act to s.
75 | 948.06, F.S., in a reference thereto; providing an
76 | effective date.

77

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



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Section 1. Subsection (6) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(a) The Legislature recognizes that early referral and comprehensive treatment can help combat mental illnesses and substance abuse disorders in families and that treatment is cost-effective.

(b) The Legislature establishes the following goals for the state related to mental illness and substance abuse treatment services in the dependency process:

1. To ensure the safety of children.

2. To prevent and remediate the consequences of mental illnesses and substance abuse disorders on families involved in protective supervision or foster care and reduce the occurrences of mental illnesses and substance abuse disorders, including alcohol abuse or related disorders, for families who are at risk of being involved in protective supervision or foster care.

3. To expedite permanency for children and reunify healthy, intact families, when appropriate.

4. To support families in recovery.

(c) The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of mental illnesses and substance abuse



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105 | disorders on health indicates the need for health care services
106 | to include treatment for mental health and substance abuse
107 | disorders for ~~services to~~ children and parents, where
108 | appropriate, and that it is in the state's best interest that
109 | such children be provided the services they need to enable them
110 | to become and remain independent of state care. In order to
111 | provide these services, the state's dependency system must have
112 | the ability to identify and provide appropriate intervention and
113 | treatment for children with personal or family-related mental
114 | illness and substance abuse problems.

115 | (d) It is the intent of the Legislature to encourage the
116 | use of the mental health court program model established under
117 | s. 394.47892 and the drug court program model established under
118 | ~~by~~ s. 397.334 and authorize courts to assess children and
119 | persons who have custody or are requesting custody of children
120 | where good cause is shown to identify and address mental
121 | illnesses and substance abuse disorders ~~problems~~ as the court
122 | deems appropriate at every stage of the dependency process.
123 | Participation in treatment, including a mental health court
124 | program or a treatment-based drug court program, may be required
125 | by the court following adjudication. Participation in assessment
126 | and treatment before ~~prior to~~ adjudication is ~~shall be~~
127 | voluntary, except as provided in s. 39.407(16).

128 | (e) It is therefore the purpose of the Legislature to
129 | provide authority for the state to contract with mental health
130 | service providers and community substance abuse treatment



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131 providers for the development and operation of specialized
132 support and overlay services for the dependency system, which
133 will be fully implemented and used as resources permit.

134 (f) Participation in a mental health court program or a
135 ~~the~~ treatment-based drug court program does not divest any
136 public or private agency of its responsibility for a child or
137 adult, but is intended to enable these agencies to better meet
138 their needs through shared responsibility and resources.

139 Section 2. Subsection (10) of section 39.507, Florida
140 Statutes, is amended to read:

141 39.507 Adjudicatory hearings; orders of adjudication.—

142 (10) After an adjudication of dependency, or a finding of
143 dependency where adjudication is withheld, the court may order a
144 person who has custody or is requesting custody of the child to
145 submit to a mental health or substance abuse disorder assessment
146 or evaluation. The assessment or evaluation must be administered
147 by a qualified professional, as defined in s. 397.311. The court
148 may also require such person to participate in and comply with
149 treatment and services identified as necessary, including, when
150 appropriate and available, participation in and compliance with
151 a mental health court program established under s. 394.47892 or
152 a treatment-based drug court program established under s.
153 397.334. In addition to supervision by the department, the
154 court, including the mental health court program or treatment-
155 based drug court program, may oversee the progress and
156 compliance with treatment by a person who has custody or is



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157 requesting custody of the child. The court may impose
158 appropriate available sanctions for noncompliance upon a person
159 who has custody or is requesting custody of the child or make a
160 finding of noncompliance for consideration in determining
161 whether an alternative placement of the child is in the child's
162 best interests. Any order entered under this subsection may be
163 made only upon good cause shown. This subsection does not
164 authorize placement of a child with a person seeking custody,
165 other than the parent or legal custodian, who requires mental
166 health or substance abuse disorder treatment.

167 Section 3. Paragraph (b) of subsection (1) of section
168 39.521, Florida Statutes, is amended to read:

169 39.521 Disposition hearings; powers of disposition.—

170 (1) A disposition hearing shall be conducted by the court,
171 if the court finds that the facts alleged in the petition for
172 dependency were proven in the adjudicatory hearing, or if the
173 parents or legal custodians have consented to the finding of
174 dependency or admitted the allegations in the petition, have
175 failed to appear for the arraignment hearing after proper
176 notice, or have not been located despite a diligent search
177 having been conducted.

178 (b) When any child is adjudicated by a court to be
179 dependent, the court having jurisdiction of the child has the
180 power by order to:

181 1. Require the parent and, when appropriate, the legal
182 custodian and the child to participate in treatment and services



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183 identified as necessary. The court may require the person who
184 has custody or who is requesting custody of the child to submit
185 to a mental health or substance abuse disorder assessment or
186 evaluation. The assessment or evaluation must be administered by
187 a qualified professional, as defined in s. 397.311. The court
188 may also require such person to participate in and comply with
189 treatment and services identified as necessary, including, when
190 appropriate and available, participation in and compliance with
191 a mental health court program established under s. 394.47892 or
192 a treatment-based drug court program established under s.
193 397.334. In addition to supervision by the department, the
194 court, including the mental health court program or the
195 treatment-based drug court program, may oversee the progress and
196 compliance with treatment by a person who has custody or is
197 requesting custody of the child. The court may impose
198 appropriate available sanctions for noncompliance upon a person
199 who has custody or is requesting custody of the child or make a
200 finding of noncompliance for consideration in determining
201 whether an alternative placement of the child is in the child's
202 best interests. Any order entered under this subparagraph may be
203 made only upon good cause shown. This subparagraph does not
204 authorize placement of a child with a person seeking custody of
205 the child, other than the child's parent or legal custodian, who
206 requires mental health or substance abuse disorder treatment.

207 2. Require, if the court deems necessary, the parties to
208 participate in dependency mediation.



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209 3. Require placement of the child either under the
210 protective supervision of an authorized agent of the department
211 in the home of one or both of the child's parents or in the home
212 of a relative of the child or another adult approved by the
213 court, or in the custody of the department. Protective
214 supervision continues until the court terminates it or until the
215 child reaches the age of 18, whichever date is first. Protective
216 supervision shall be terminated by the court whenever the court
217 determines that permanency has been achieved for the child,
218 whether with a parent, another relative, or a legal custodian,
219 and that protective supervision is no longer needed. The
220 termination of supervision may be with or without retaining
221 jurisdiction, at the court's discretion, and shall in either
222 case be considered a permanency option for the child. The order
223 terminating supervision by the department shall set forth the
224 powers of the custodian of the child and shall include the
225 powers ordinarily granted to a guardian of the person of a minor
226 unless otherwise specified. Upon the court's termination of
227 supervision by the department, no further judicial reviews are
228 required, so long as permanency has been established for the
229 child.

230 Section 4. Subsections (1) through (7) of section
231 394.4655, F.S., are renumbered as subsections (2) through (8),
232 respectively, paragraph (b) of present subsection (3), paragraph
233 (b) of present subsection (6), and paragraphs (a) and (c) of
234 present subsection (7) are amended, and a new subsection (1) is



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235 added to that section, to read:

236 394.4655 Involuntary outpatient placement.—

237 (1) DEFINITIONS.—As used in this section, the term:

238 (a) "Court" means a circuit court or a criminal county
239 court.

240 (b) "Criminal county court" means a county court
241 exercising its original jurisdiction in a misdemeanor case under
242 s. 34.01.

243 (4) ~~(3)~~ PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

244 (b) Each required criterion for involuntary outpatient
245 placement must be alleged and substantiated in the petition for
246 involuntary outpatient placement. A copy of the certificate
247 recommending involuntary outpatient placement completed by a
248 qualified professional specified in subsection (3) ~~(2)~~ must be
249 attached to the petition. A copy of the proposed treatment plan
250 must be attached to the petition. Before the petition is filed,
251 the service provider shall certify that the services in the
252 proposed treatment plan are available. If the necessary services
253 are not available in the patient's local community to respond to
254 the person's individual needs, the petition may not be filed.

255 (7) ~~(6)~~ HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

256 (b)1. If the court concludes that the patient meets the
257 criteria for involuntary outpatient placement pursuant to
258 subsection (2) ~~(1)~~, the court shall issue an order for
259 involuntary outpatient placement. The court order shall be for a
260 period of up to 6 months. The order must specify the nature and



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261 extent of the patient's mental illness. The order of the court
262 and the treatment plan shall be made part of the patient's
263 clinical record. The service provider shall discharge a patient
264 from involuntary outpatient placement when the order expires or
265 any time the patient no longer meets the criteria for
266 involuntary placement. Upon discharge, the service provider
267 shall send a certificate of discharge to the court.

268 2. The court may not order the department or the service
269 provider to provide services if the program or service is not
270 available in the patient's local community, if there is no space
271 available in the program or service for the patient, or if
272 funding is not available for the program or service. A copy of
273 the order must be sent to the Agency for Health Care
274 Administration by the service provider within 1 working day
275 after it is received from the court. After the placement order
276 is issued, the service provider and the patient may modify
277 provisions of the treatment plan. For any material modification
278 of the treatment plan to which the patient or the patient's
279 guardian advocate, if appointed, does agree, the service
280 provider shall send notice of the modification to the court. Any
281 material modifications of the treatment plan which are contested
282 by the patient or the patient's guardian advocate, if appointed,
283 must be approved or disapproved by the court consistent with
284 subsection (3) ~~(2)~~.

285 3. If, in the clinical judgment of a physician, the
286 patient has failed or has refused to comply with the treatment



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287 | ordered by the court, and, in the clinical judgment of the
288 | physician, efforts were made to solicit compliance and the
289 | patient may meet the criteria for involuntary examination, a
290 | person may be brought to a receiving facility pursuant to s.
291 | 394.463. If, after examination, the patient does not meet the
292 | criteria for involuntary inpatient placement pursuant to s.
293 | 394.467, the patient must be discharged from the receiving
294 | facility. The involuntary outpatient placement order shall
295 | remain in effect unless the service provider determines that the
296 | patient no longer meets the criteria for involuntary outpatient
297 | placement or until the order expires. The service provider must
298 | determine whether modifications should be made to the existing
299 | treatment plan and must attempt to continue to engage the
300 | patient in treatment. For any material modification of the
301 | treatment plan to which the patient or the patient's guardian
302 | advocate, if appointed, does agree, the service provider shall
303 | send notice of the modification to the court. Any material
304 | modifications of the treatment plan which are contested by the
305 | patient or the patient's guardian advocate, if appointed, must
306 | be approved or disapproved by the court consistent with
307 | subsection (3) ~~(2)~~.

308 | (8) ~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT
309 | PLACEMENT.—

310 | (a)1. If the person continues to meet the criteria for
311 | involuntary outpatient placement, the service provider shall,
312 | before the expiration of the period during which the treatment



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313 is ordered for the person, file in the ~~circuit~~ court that issued
314 the order for involuntary outpatient treatment a petition for
315 continued involuntary outpatient placement.

316 2. The existing involuntary outpatient placement order
317 remains in effect until disposition on the petition for
318 continued involuntary outpatient placement.

319 3. A certificate shall be attached to the petition which
320 includes a statement from the person's physician or clinical
321 psychologist justifying the request, a brief description of the
322 patient's treatment during the time he or she was involuntarily
323 placed, and an individualized plan of continued treatment.

324 4. The service provider shall develop the individualized
325 plan of continued treatment in consultation with the patient or
326 the patient's guardian advocate, if appointed. When the petition
327 has been filed, the clerk of the court shall provide copies of
328 the certificate and the individualized plan of continued
329 treatment to the department, the patient, the patient's guardian
330 advocate, the state attorney, and the patient's private counsel
331 or the public defender.

332 (c) Hearings on petitions for continued involuntary
333 outpatient placement shall be before the ~~circuit~~ court that
334 issued the order for involuntary outpatient treatment. The court
335 may appoint a master to preside at the hearing. The procedures
336 for obtaining an order pursuant to this paragraph shall be in
337 accordance with subsection (7) ~~(6)~~, except that the time period
338 included in paragraph (2) (e) ~~(1) (e)~~ is not applicable in



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339 determining the appropriateness of additional periods of
340 involuntary outpatient placement.

341 Section 5. Paragraph (d) of subsection (2) of section
342 394.4599, Florida Statutes, is amended to read:

343 394.4599 Notice.—

344 (2) INVOLUNTARY ADMISSION.—

345 (d) The written notice of the filing of the petition for
346 involuntary placement of an individual being held must contain
347 the following:

348 1. Notice that the petition for:

349 a. Involuntary inpatient treatment pursuant to s. 394.467
350 has been filed with the circuit court in the county in which the
351 individual is hospitalized and the address of such court; or

352 b. Involuntary outpatient treatment pursuant to s.
353 394.4655 has been filed with the criminal county court, as
354 defined in s. 394.4655(1), or the circuit court, as applicable,
355 in the county in which the individual is hospitalized and the
356 address of such court.

357 2. Notice that the office of the public defender has been
358 appointed to represent the individual in the proceeding, if the
359 individual is not otherwise represented by counsel.

360 3. The date, time, and place of the hearing and the name
361 of each examining expert and every other person expected to
362 testify in support of continued detention.

363 4. Notice that the individual, the individual's guardian,
364 guardian advocate, health care surrogate or proxy, or



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365 representative, or the administrator may apply for a change of
366 venue for the convenience of the parties or witnesses or because
367 of the condition of the individual.

368 5. Notice that the individual is entitled to an
369 independent expert examination and, if the individual cannot
370 afford such an examination, that the court will provide for one.

371 Section 6. Paragraphs (g) and (i) of subsection (2) of
372 section 394.463, Florida Statutes, are amended to read:

373 394.463 Involuntary examination.—

374 (2) INVOLUNTARY EXAMINATION.—

375 (g) A person for whom an involuntary examination has been
376 initiated who is being evaluated or treated at a hospital for an
377 emergency medical condition specified in s. 395.002 must be
378 examined by a receiving facility within 72 hours. The 72-hour
379 period begins when the patient arrives at the hospital and
380 ceases when the attending physician documents that the patient
381 has an emergency medical condition. If the patient is examined
382 at a hospital providing emergency medical services by a
383 professional qualified to perform an involuntary examination and
384 is found as a result of that examination not to meet the
385 criteria for involuntary outpatient placement pursuant to s.
386 394.4655(2) ~~394.4655(1)~~ or involuntary inpatient placement
387 pursuant to s. 394.467(1), the patient may be offered voluntary
388 placement, if appropriate, or released directly from the
389 hospital providing emergency medical services. The finding by
390 the professional that the patient has been examined and does not



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391 meet the criteria for involuntary inpatient placement or
392 involuntary outpatient placement must be entered into the
393 patient's clinical record. Nothing in this paragraph is intended
394 to prevent a hospital providing emergency medical services from
395 appropriately transferring a patient to another hospital prior
396 to stabilization, provided the requirements of s. 395.1041(3)(c)
397 have been met.

398 (i) Within the 72-hour examination period or, if the 72
399 hours ends on a weekend or holiday, no later than the next
400 working day thereafter, one of the following actions must be
401 taken, based on the individual needs of the patient:

402 1. The patient shall be released, unless he or she is
403 charged with a crime, in which case the patient shall be
404 returned to the custody of a law enforcement officer;

405 2. The patient shall be released, subject to the
406 provisions of subparagraph 1., for voluntary outpatient
407 treatment;

408 3. The patient, unless he or she is charged with a crime,
409 shall be asked to give express and informed consent to placement
410 as a voluntary patient, and, if such consent is given, the
411 patient shall be admitted as a voluntary patient; or

412 4. A petition for involuntary placement shall be filed in
413 the circuit court if ~~when outpatient or~~ inpatient treatment is
414 deemed necessary or with the criminal county court, as defined
415 in s. 394.4655(1), as applicable. ~~If~~ ~~When~~ inpatient treatment is
416 deemed necessary, the least restrictive treatment consistent



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417 with the optimum improvement of the patient's condition shall be
 418 made available. When a petition is to be filed for involuntary
 419 outpatient placement, it shall be filed by one of the
 420 petitioners specified in s. 394.4655(4)(a) ~~394.4655(3)(a)~~. A
 421 petition for involuntary inpatient placement shall be filed by
 422 the facility administrator.

423 Section 7. Subsection (34) of section 394.455, Florida
 424 Statutes, is amended to read:

425 394.455 Definitions.—As used in this part, unless the
 426 context clearly requires otherwise, the term:

427 (34) "Involuntary examination" means an examination
 428 performed under s. 394.463 to determine if an individual
 429 qualifies for involuntary inpatient treatment under s.
 430 394.467(1) or involuntary outpatient treatment under s.
 431 394.4655(2) ~~394.4655(1)~~.

432 Section 8. Subsection (3) of section 394.4615, Florida
 433 Statutes, is amended to read:

434 394.4615 Clinical records; confidentiality.—

435 (3) Information from the clinical record may be released
 436 in the following circumstances:

437 (a) When a patient has declared an intention to harm other
 438 persons. When such declaration has been made, the administrator
 439 may authorize the release of sufficient information to provide
 440 adequate warning to the person threatened with harm by the
 441 patient.

442 (b) When the administrator of the facility or secretary of



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443 the department deems release to a qualified researcher as
444 defined in administrative rule, an aftercare treatment provider,
445 or an employee or agent of the department is necessary for
446 treatment of the patient, maintenance of adequate records,
447 compilation of treatment data, aftercare planning, or evaluation
448 of programs.

449
450 For the purpose of determining whether a person meets the
451 criteria for involuntary outpatient placement or for preparing
452 the proposed treatment plan pursuant to s. 394.4655, the
453 clinical record may be released to the state attorney, the
454 public defender or the patient's private legal counsel, the
455 court, and to the appropriate mental health professionals,
456 including the service provider identified in s. 394.4655(7)(b)2.
457 ~~394.4655(6)(b)2.~~, in accordance with state and federal law.

458 Section 9. Section 394.47891, Florida Statutes, is amended
459 to read:

460 394.47891 Military veterans and servicemembers court
461 programs.—The chief judge of each judicial circuit may establish
462 a Military Veterans and Servicemembers Court Program under which
463 veterans, as defined in s. 1.01, including veterans who were
464 discharged or released under a general discharge, and
465 servicemembers, as defined in s. 250.01, who are charged or
466 convicted of a criminal offense and who suffer from a military-
467 related mental illness, traumatic brain injury, substance abuse
468 disorder, or psychological problem can be sentenced in



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469 accordance with chapter 921 in a manner that appropriately
470 addresses the severity of the mental illness, traumatic brain
471 injury, substance abuse disorder, or psychological problem
472 through services tailored to the individual needs of the
473 participant. Entry into any Military Veterans and Servicemembers
474 Court Program must be based upon the sentencing court's
475 assessment of the defendant's criminal history, military
476 service, substance abuse treatment needs, mental health
477 treatment needs, amenability to the services of the program, the
478 recommendation of the state attorney and the victim, if any, and
479 the defendant's agreement to enter the program.

480 Section 10. Section 394.47892, Florida Statutes, is
481 created to read:

482 394.47892 Mental health court programs.—

483 (1) Each county may fund a mental health court program
484 under which a defendant in the justice system assessed with a
485 mental illness shall be processed in such a manner as to
486 appropriately address the severity of the identified mental
487 illness through treatment services tailored to the individual
488 needs of the participant. The Legislature intends to encourage
489 the department, the Department of Corrections, the Department of
490 Juvenile Justice, the Department of Health, the Department of
491 Law Enforcement, the Department of Education, and other such
492 agencies, local governments, law enforcement agencies,
493 interested public or private entities, and individuals to
494 support the creation and establishment of problem-solving court



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495 programs. Participation in a mental health court program does
496 not relieve a public or private agency of its responsibility for
497 a child or an adult, but enables such agency to better meet the
498 child's or adult's needs through shared responsibility and
499 resources.

500 (2) Mental health court programs may include pretrial
501 intervention programs as provided in ss. 948.08, 948.16, and
502 985.345, postadjudicatory mental health court programs as
503 provided in ss. 948.01 and 948.06, and review of the status of
504 compliance or noncompliance of sentenced defendants through a
505 mental health court program.

506 (3) Entry into a pretrial mental health court program is
507 voluntary.

508 (4) (a) Entry into a postadjudicatory mental health court
509 program as a condition of probation or community control
510 pursuant to s. 948.01 or s. 948.06 must be based upon the
511 sentencing court's assessment of the defendant's criminal
512 history, mental health screening outcome, amenability to the
513 services of the program, and total sentence points; the
514 recommendation of the state attorney and the victim, if any; and
515 the defendant's agreement to enter the program.

516 (b) A defendant who is sentenced to a postadjudicatory
517 mental health court program and who, while a mental health court
518 program participant, is the subject of a violation of probation
519 or community control under s. 948.06 shall have the violation of
520 probation or community control heard by the judge presiding over



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521 the postadjudicatory mental health court program. After a
522 hearing on or admission of the violation, the judge shall
523 dispose of any such violation as he or she deems appropriate if
524 the resulting sentence or conditions are lawful.

525 (5) (a) Contingent upon an annual appropriation by the
526 Legislature, the state courts system shall establish, at a
527 minimum, one coordinator position in each mental health court
528 program to coordinate the responsibilities of the participating
529 agencies and service providers. Each coordinator shall provide
530 direct support to the mental health court program by providing
531 coordination between the multidisciplinary team and the
532 judiciary, providing case management, monitoring compliance of
533 the participants in the mental health court program with court
534 requirements, and managing the collection of data for program
535 evaluation and accountability.

536 (b) Each mental health court program shall collect
537 sufficient client-level data and programmatic information for
538 purposes of program evaluation. Client-level data includes
539 primary offenses that resulted in the mental health court
540 program referral or sentence, treatment compliance, completion
541 status and reasons for failure to complete, offenses committed
542 during treatment and the sanctions imposed, frequency of court
543 appearances, and units of service. Programmatic information
544 includes referral and screening procedures, eligibility
545 criteria, type and duration of treatment offered, and
546 residential treatment resources. The programmatic information



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547 and aggregate data on the number of mental health court program
548 admissions and terminations by type of termination shall be
549 reported annually by each mental health court program to the
550 Office of the State Courts Administrator.

551 (6) If a county chooses to fund a mental health court
552 program, the county must secure funding from sources other than
553 the state for those costs not otherwise assumed by the state
554 pursuant to s. 29.004. However, this subsection does not
555 preclude counties from using funds for treatment and other
556 services provided through state executive branch agencies.
557 Counties may provide, by interlocal agreement, for the
558 collective funding of these programs.

559 (7) The chief judge of each judicial circuit may appoint
560 an advisory committee for the mental health court program. The
561 committee shall be composed of the chief judge, or his or her
562 designee, who shall serve as chair; the judge or judges of the
563 mental health court program, if not otherwise designated by the
564 chief judge as his or her designee; the state attorney, or his
565 or her designee; the public defender, or his or her designee;
566 the mental health court program coordinator or coordinators;
567 community representatives; treatment representatives; and any
568 other persons who the chair deems appropriate.

569 Section 11. Paragraph (a) of subsection (2) of section
570 790.065, Florida Statutes, is amended to read:

571 790.065 Sale and delivery of firearms.—

572 (2) Upon receipt of a request for a criminal history



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573 record check, the Department of Law Enforcement shall, during
574 the licensee's call or by return call, forthwith:

575 (a) Review any records available to determine if the
576 potential buyer or transferee:

577 1. Has been convicted of a felony and is prohibited from
578 receipt or possession of a firearm pursuant to s. 790.23;

579 2. Has been convicted of a misdemeanor crime of domestic
580 violence, and therefore is prohibited from purchasing a firearm;

581 3. Has had adjudication of guilt withheld or imposition of
582 sentence suspended on any felony or misdemeanor crime of
583 domestic violence unless 3 years have elapsed since probation or
584 any other conditions set by the court have been fulfilled or
585 expunction has occurred; or

586 4. Has been adjudicated mentally defective or has been
587 committed to a mental institution by a court or as provided in
588 sub-sub-subparagraph b.(II), and as a result is prohibited by
589 state or federal law from purchasing a firearm.

590 a. As used in this subparagraph, "adjudicated mentally
591 defective" means a determination by a court that a person, as a
592 result of marked subnormal intelligence, or mental illness,
593 incompetency, condition, or disease, is a danger to himself or
594 herself or to others or lacks the mental capacity to contract or
595 manage his or her own affairs. The phrase includes a judicial
596 finding of incapacity under s. 744.331(6)(a), an acquittal by
597 reason of insanity of a person charged with a criminal offense,
598 and a judicial finding that a criminal defendant is not



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599 competent to stand trial.

600 b. As used in this subparagraph, "committed to a mental
601 institution" means:

602 (I) Involuntary commitment, commitment for mental
603 defectiveness or mental illness, and commitment for substance
604 abuse. The phrase includes involuntary inpatient placement as
605 defined in s. 394.467, involuntary outpatient placement as
606 defined in s. 394.4655, involuntary assessment and stabilization
607 under s. 397.6818, and involuntary substance abuse treatment
608 under s. 397.6957, but does not include a person in a mental
609 institution for observation or discharged from a mental
610 institution based upon the initial review by the physician or a
611 voluntary admission to a mental institution; or

612 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
613 admission to a mental institution for outpatient or inpatient
614 treatment of a person who had an involuntary examination under
615 s. 394.463, where each of the following conditions have been
616 met:

617 (A) An examining physician found that the person is an
618 imminent danger to himself or herself or others.

619 (B) The examining physician certified that if the person
620 did not agree to voluntary treatment, a petition for involuntary
621 outpatient or inpatient treatment would have been filed under s.
622 394.463(2)(i)4., or the examining physician certified that a
623 petition was filed and the person subsequently agreed to
624 voluntary treatment prior to a court hearing on the petition.



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625 (C) Before agreeing to voluntary treatment, the person
626 received written notice of that finding and certification, and
627 written notice that as a result of such finding, he or she may
628 be prohibited from purchasing a firearm, and may not be eligible
629 to apply for or retain a concealed weapon or firearms license
630 under s. 790.06 and the person acknowledged such notice in
631 writing, in substantially the following form:

632 "I understand that the doctor who examined me believes I am a
633 danger to myself or to others. I understand that if I do not
634 agree to voluntary treatment, a petition will be filed in court
635 to require me to receive involuntary treatment. I understand
636 that if that petition is filed, I have the right to contest it.
637 In the event a petition has been filed, I understand that I can
638 subsequently agree to voluntary treatment prior to a court
639 hearing. I understand that by agreeing to voluntary treatment in
640 either of these situations, I may be prohibited from buying
641 firearms and from applying for or retaining a concealed weapons
642 or firearms license until I apply for and receive relief from
643 that restriction under Florida law."

644 (D) A judge or a magistrate has, pursuant to sub-sub-
645 subparagraph c.(II), reviewed the record of the finding,
646 certification, notice, and written acknowledgment classifying
647 the person as an imminent danger to himself or herself or
648 others, and ordered that such record be submitted to the
649 department.

650 c. In order to check for these conditions, the department



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651 shall compile and maintain an automated database of persons who
652 are prohibited from purchasing a firearm based on court records
653 of adjudications of mental defectiveness or commitments to
654 mental institutions.

655 (I) Except as provided in sub-sub-subparagraph (II),
656 clerks of court shall submit these records to the department
657 within 1 month after the rendition of the adjudication or
658 commitment. Reports shall be submitted in an automated format.
659 The reports must, at a minimum, include the name, along with any
660 known alias or former name, the sex, and the date of birth of
661 the subject.

662 (II) For persons committed to a mental institution
663 pursuant to sub-sub-subparagraph b.(II), within 24 hours after
664 the person's agreement to voluntary admission, a record of the
665 finding, certification, notice, and written acknowledgment must
666 be filed by the administrator of the receiving or treatment
667 facility, as defined in s. 394.455, with the clerk of the court
668 for the county in which the involuntary examination under s.
669 394.463 occurred. No fee shall be charged for the filing under
670 this sub-sub-subparagraph. The clerk must present the records to
671 a judge or magistrate within 24 hours after receipt of the
672 records. A judge or magistrate is required and has the lawful
673 authority to review the records ex parte and, if the judge or
674 magistrate determines that the record supports the classifying
675 of the person as an imminent danger to himself or herself or
676 others, to order that the record be submitted to the department.



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677 If a judge or magistrate orders the submittal of the record to
678 the department, the record must be submitted to the department
679 within 24 hours.

680 d. A person who has been adjudicated mentally defective or
681 committed to a mental institution, as those terms are defined in
682 this paragraph, may petition the ~~circuit~~ court that made the
683 adjudication or commitment, or the court that ordered that the
684 record be submitted to the department pursuant to sub-sub-
685 subparagraph c.(II), for relief from the firearm disabilities
686 imposed by such adjudication or commitment. A copy of the
687 petition shall be served on the state attorney for the county in
688 which the person was adjudicated or committed. The state
689 attorney may object to and present evidence relevant to the
690 relief sought by the petition. The hearing on the petition may
691 be open or closed as the petitioner may choose. The petitioner
692 may present evidence and subpoena witnesses to appear at the
693 hearing on the petition. The petitioner may confront and cross-
694 examine witnesses called by the state attorney. A record of the
695 hearing shall be made by a certified court reporter or by court-
696 approved electronic means. The court shall make written findings
697 of fact and conclusions of law on the issues before it and issue
698 a final order. The court shall grant the relief requested in the
699 petition if the court finds, based on the evidence presented
700 with respect to the petitioner's reputation, the petitioner's
701 mental health record and, if applicable, criminal history
702 record, the circumstances surrounding the firearm disability,



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703 and any other evidence in the record, that the petitioner will
704 not be likely to act in a manner that is dangerous to public
705 safety and that granting the relief would not be contrary to the
706 public interest. If the final order denies relief, the
707 petitioner may not petition again for relief from firearm
708 disabilities until 1 year after the date of the final order. The
709 petitioner may seek judicial review of a final order denying
710 relief in the district court of appeal having jurisdiction over
711 the court that issued the order. The review shall be conducted
712 de novo. Relief from a firearm disability granted under this
713 sub-subparagraph has no effect on the loss of civil rights,
714 including firearm rights, for any reason other than the
715 particular adjudication of mental defectiveness or commitment to
716 a mental institution from which relief is granted.

717 e. Upon receipt of proper notice of relief from firearm
718 disabilities granted under sub-subparagraph d., the department
719 shall delete any mental health record of the person granted
720 relief from the automated database of persons who are prohibited
721 from purchasing a firearm based on court records of
722 adjudications of mental defectiveness or commitments to mental
723 institutions.

724 f. The department is authorized to disclose data collected
725 pursuant to this subparagraph to agencies of the Federal
726 Government and other states for use exclusively in determining
727 the lawfulness of a firearm sale or transfer. The department is
728 also authorized to disclose this data to the Department of



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729 Agriculture and Consumer Services for purposes of determining
 730 eligibility for issuance of a concealed weapons or concealed
 731 firearms license and for determining whether a basis exists for
 732 revoking or suspending a previously issued license pursuant to
 733 s. 790.06(10). When a potential buyer or transferee appeals a
 734 nonapproval based on these records, the clerks of court and
 735 mental institutions shall, upon request by the department,
 736 provide information to help determine whether the potential
 737 buyer or transferee is the same person as the subject of the
 738 record. Photographs and any other data that could confirm or
 739 negate identity must be made available to the department for
 740 such purposes, notwithstanding any other provision of state law
 741 to the contrary. Any such information that is made confidential
 742 or exempt from disclosure by law shall retain such confidential
 743 or exempt status when transferred to the department.

744 Section 12. Paragraph (a) of subsection (5) of section
 745 910.035, Florida Statutes, is amended to read:

746 910.035 Transfer from county for plea, sentence, or
 747 participation in a problem-solving court.—

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

750 (a) For purposes of this subsection, the term "problem-
 751 solving court" means a drug court pursuant to s. 948.01, s.
 752 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans'
 753 and servicemembers' court pursuant to s. 394.47891, s. 948.08,
 754 s. 948.16, or s. 948.21; ~~or~~ a mental health court program



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755 pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s.
756 948.16; or a delinquency pretrial intervention court program
757 pursuant to s. 985.345.

758 Section 13. Section 916.185, Florida Statutes, is created
759 to read:

760 916.185 Forensic Hospital Diversion Pilot Program.—

761 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
762 that many jail inmates who have serious mental illnesses and who
763 are committed to state forensic mental health treatment
764 facilities for restoration of competency to proceed could be
765 served more effectively and at less cost in community-based
766 alternative programs. The Legislature further finds that many
767 people who have serious mental illnesses and who have been
768 discharged from state forensic mental health treatment
769 facilities could avoid returning to the criminal justice and
770 forensic mental health systems if they received specialized
771 treatment in the community. Therefore, it is the intent of the
772 Legislature to create the Forensic Hospital Diversion Pilot
773 Program to serve offenders who have mental illnesses or co-
774 occurring mental illnesses and substance use disorders and who
775 are involved in or at risk of entering state forensic mental
776 health treatment facilities, prisons, jails, or state civil
777 mental health treatment facilities.

778 (2) DEFINITIONS.—As used in this section, the term:

779 (a) "Best practices" means treatment services that
780 incorporate the most effective and acceptable interventions



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781 available in the care and treatment of offenders who are
782 diagnosed as having mental illnesses or co-occurring mental
783 illnesses and substance use disorders.

784 (b) "Community forensic system" means the community mental
785 health and substance use forensic treatment system, including
786 the comprehensive set of services and supports provided to
787 offenders involved in or at risk of becoming involved in the
788 criminal justice system.

789 (c) "Evidence-based practices" means interventions and
790 strategies that, based on the best available empirical research,
791 demonstrate effective and efficient outcomes in the care and
792 treatment of offenders who are diagnosed as having mental
793 illnesses or co-occurring mental illnesses and substance use
794 disorders.

795 (3) CREATION.—There is authorized a Forensic Hospital
796 Diversion Pilot Program to provide competency-restoration and
797 community-reintegration services in either a locked residential
798 treatment facility when appropriate or a community-based
799 facility based on considerations of public safety, the needs of
800 the individual, and available resources.

801 (a) The department may implement a Forensic Hospital
802 Diversion Pilot Program modeled after the Miami-Dade Forensic
803 Alternative Center, taking into account local needs and
804 resources in Duval County, in conjunction with the Fourth
805 Judicial Circuit in Duval County; in Broward County, in
806 conjunction with the Seventeenth Judicial Circuit in Broward



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807 County; and in Miami-Dade County, in conjunction with the
808 Eleventh Judicial Circuit in Miami-Dade County.

809 (b) If the department elects to create and implement the
810 program, the department shall include a comprehensive continuum
811 of care and services that use evidence-based practices and best
812 practices to treat offenders who have mental health and co-
813 occurring substance use disorders.

814 (c) The department and the corresponding judicial circuits
815 may implement this section if existing resources are available
816 to do so on a recurring basis. The department may request budget
817 amendments pursuant to chapter 216 to realign funds between
818 mental health services and community substance abuse and mental
819 health services in order to implement this pilot program.

820 (4) ELIGIBILITY.—Participation in the Forensic Hospital
821 Diversion Pilot Program is limited to offenders who:

822 (a) Are 18 years of age or older.

823 (b) Are charged with a felony of the second degree or a
824 felony of the third degree.

825 (c) Do not have a significant history of violent criminal
826 offenses.

827 (d) Are adjudicated incompetent to proceed to trial or not
828 guilty by reason of insanity pursuant to this part.

829 (e) Meet public safety and treatment criteria established
830 by the department for placement in a community setting.

831 (f) Otherwise would be admitted to a state mental health
832 treatment facility.



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833 (5) TRAINING.—The Legislature encourages the Florida
834 Supreme Court, in consultation and cooperation with the Florida
835 Supreme Court Task Force on Substance Abuse and Mental Health
836 Issues in the Courts, to develop educational training for judges
837 in the pilot program areas which focuses on the community
838 forensic system.

839 (6) RULEMAKING.—The department may adopt rules to
840 administer this section.

841 Section 14. Subsections (6) through (13) of section
842 948.001, Florida Statutes, are renumbered as subsections (7)
843 through (14), respectively, and a new subsection (6) is added to
844 that section, to read:

845 948.001 Definitions.—As used in this chapter, the term:

846 (6) "Mental health probation" means a form of specialized
847 supervision that emphasizes mental health treatment and working
848 with treatment providers to focus on underlying mental health
849 disorders and compliance with a prescribed psychotropic
850 medication regimen in accordance with individualized treatment
851 plans. Mental health probation shall be supervised by officers
852 with restricted caseloads who are sensitive to the unique needs
853 of individuals with mental health disorders, and who will work
854 in tandem with community mental health case managers assigned to
855 the defendant. Caseloads of such officers should be restricted
856 to a maximum of 50 cases per officer in order to ensure an
857 adequate level of staffing and supervision.

858 Section 15. Subsection (8) is added to section 948.01,



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859 Florida Statutes, to read:

860 948.01 When court may place defendant on probation or into
861 community control.—

862 (8)(a) Notwithstanding s. 921.0024 and effective for
863 offenses committed on or after July 1, 2016, the sentencing
864 court may place the defendant into a postadjudicatory mental
865 health court program if the offense is a nonviolent felony, the
866 defendant is amenable to mental health treatment, including
867 taking prescribed medications, and the defendant is otherwise
868 qualified under s. 394.47892(4). The satisfactory completion of
869 the program must be a condition of the defendant's probation or
870 community control. As used in this subsection, the term
871 "nonviolent felony" means a third degree felony violation under
872 chapter 810 or any other felony offense that is not a forcible
873 felony as defined in s. 776.08. Defendants charged with
874 resisting an officer with violence under s. 843.01, battery on a
875 law enforcement officer under s. 784.07, or aggravated assault
876 may participate in the mental health court program if the court
877 so orders after the victim is given his or her right to provide
878 testimony or written statement to the court as provided in s.
879 921.143.

880 (b) The defendant must be fully advised of the purpose of
881 the mental health court program and the defendant must agree to
882 enter the program. The original sentencing court shall
883 relinquish jurisdiction of the defendant's case to the
884 postadjudicatory mental health court program until the defendant



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885 is no longer active in the program, the case is returned to the
886 sentencing court due to the defendant's termination from the
887 program for failure to comply with the terms thereof, or the
888 defendant's sentence is completed.

889 (c) The Department of Corrections may establish designated
890 and trained mental health probation officers to support
891 individuals under supervision of the mental health court
892 program.

893 Section 16. Paragraph (j) is added to subsection (2) of
894 section 948.06, Florida Statutes, to read:

895 948.06 Violation of probation or community control;
896 revocation; modification; continuance; failure to pay
897 restitution or cost of supervision.—

898 (2)

899 (j)1. Notwithstanding s. 921.0024 and effective for
900 offenses committed on or after July 1, 2016, the court may order
901 the offender to successfully complete a postadjudicatory mental
902 health court program under s. 394.47892 or a military veterans
903 and servicemembers court program under s. 394.47891 if:

904 a. The court finds or the offender admits that the
905 offender has violated his or her community control or probation;

906 b. The underlying offense is a nonviolent felony. As used
907 in this subsection, the term "nonviolent felony" means a third
908 degree felony violation under chapter 810 or any other felony
909 offense that is not a forcible felony as defined in s. 776.08.
910 Offenders charged with resisting an officer with violence under



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911 s. 843.01, battery on a law enforcement officer under s. 784.07,
912 or aggravated assault may participate in the mental health court
913 program if the court so orders after the victim is given his or
914 her right to provide testimony or written statement to the court
915 as provided in s. 921.143;

916 c. The court determines that the offender is amenable to
917 the services of a postadjudicatory mental health court program,
918 including taking prescribed medications, or a military veterans
919 and servicemembers court program;

920 d. The court explains the purpose of the program to the
921 offender and the offender agrees to participate; and

922 e. The offender is otherwise qualified to participate in a
923 postadjudicatory mental health court program under s.
924 394.47892(4) or a military veterans and servicemembers court
925 program under s. 394.47891.

926 2. After the court orders the modification of community
927 control or probation, the original sentencing court shall
928 relinquish jurisdiction of the offender's case to the
929 postadjudicatory mental health court program until the offender
930 is no longer active in the program, the case is returned to the
931 sentencing court due to the offender's termination from the
932 program for failure to comply with the terms thereof, or the
933 offender's sentence is completed.

934 Section 17. Subsection (8) of section 948.08, Florida
935 Statutes, is renumbered as subsection (9), paragraph (a) of
936 subsection (7) is amended, and a new subsection (8) is added to



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937 that section, to read:

938 948.08 Pretrial intervention program.—

939 (7) (a) Notwithstanding any provision of this section, a
940 person who is charged with a felony, other than a felony listed
941 in s. 948.06(8)(c), and identified as a veteran, as defined in
942 s. 1.01, including a veteran who is discharged or released under
943 a general discharge, or servicemember, as defined in s. 250.01,
944 who suffers from a military service-related mental illness,
945 traumatic brain injury, substance abuse disorder, or
946 psychological problem, is eligible for voluntary admission into
947 a pretrial veterans' treatment intervention program approved by
948 the chief judge of the circuit, upon motion of either party or
949 the court's own motion, except:

950 1. If a defendant was previously offered admission to a
951 pretrial veterans' treatment intervention program at any time
952 before trial and the defendant rejected that offer on the
953 record, the court may deny the defendant's admission to such a
954 program.

955 2. If a defendant previously entered a court-ordered
956 veterans' treatment program, the court may deny the defendant's
957 admission into the pretrial veterans' treatment program.

958 (8) (a) Notwithstanding any provision of this section, a
959 defendant is eligible for voluntary admission into a pretrial
960 mental health court program established pursuant to s. 394.47892
961 and approved by the chief judge of the circuit for a period to
962 be determined by the court, based on the clinical needs of the



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963 defendant, upon motion of either party or the court's own motion
964 if:

- 965 1. The defendant is identified as having a mental illness;
- 966 2. The defendant has not been convicted of a felony; and
- 967 3. The defendant is charged with:
 - 968 a. A nonviolent felony that includes a third degree felony
969 violation of chapter 810 or any other felony offense that is not
970 a forcible felony as defined in s. 776.08;
 - 971 b. Resisting an officer with violence under s. 843.01, if
972 the law enforcement officer and state attorney consent to the
973 defendant's participation;
 - 974 c. Battery on a law enforcement officer under s. 784.07,
975 if the law enforcement officer and state attorney consent to the
976 defendant's participation; or
 - 977 d. Aggravated assault, if the victim and state attorney
978 consent to the defendant's participation.

979 (b) At the end of the pretrial intervention period, the
980 court shall consider the recommendation of the program
981 administrator and the recommendation of the state attorney as to
982 disposition of the pending charges. The court shall determine,
983 by written finding, whether the defendant has successfully
984 completed the pretrial intervention program. If the court finds
985 that the defendant has not successfully completed the pretrial
986 intervention program, the court may order the person to continue
987 in education and treatment, which may include a mental health
988 program offered by a licensed service provider, as defined in s.



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989 | 394.455, or order that the charges revert to normal channels for
 990 | prosecution. The court shall dismiss the charges upon a finding
 991 | that the defendant has successfully completed the pretrial
 992 | intervention program.

993 | Section 18. Subsections (3) and (4) of section 948.16,
 994 | Florida Statutes, are renumbered as subsections (4) and (5),
 995 | respectively, paragraph (a) of subsection (2) and present
 996 | subsection (4) of that section are amended, and a new subsection
 997 | (3) is added to that section, to read:

998 | 948.16 Misdemeanor pretrial substance abuse education and
 999 | treatment intervention program; misdemeanor pretrial veterans'
 1000 | treatment intervention program; misdemeanor pretrial mental
 1001 | health court program.-

1002 | (2) (a) A veteran, as defined in s. 1.01, including a
 1003 | veteran who is discharged or released under a general discharge,
 1004 | or servicemember, as defined in s. 250.01, who suffers from a
 1005 | military service-related mental illness, traumatic brain injury,
 1006 | substance abuse disorder, or psychological problem, and who is
 1007 | charged with a misdemeanor is eligible for voluntary admission
 1008 | into a misdemeanor pretrial veterans' treatment intervention
 1009 | program approved by the chief judge of the circuit, for a period
 1010 | based on the program's requirements and the treatment plan for
 1011 | the offender, upon motion of either party or the court's own
 1012 | motion. However, the court may deny the defendant admission into
 1013 | a misdemeanor pretrial veterans' treatment intervention program
 1014 | if the defendant has previously entered a court-ordered



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1015 veterans' treatment program.

1016 (3) A defendant who is charged with a misdemeanor and
1017 identified as having a mental illness is eligible for voluntary
1018 admission into a misdemeanor pretrial mental health court
1019 program established pursuant to s. 394.47892, approved by the
1020 chief judge of the circuit, for a period to be determined by the
1021 court, based on the clinical needs of the defendant, upon motion
1022 of either party or the court's own motion.

1023 (5)-(4) Any public or private entity providing a pretrial
1024 substance abuse education and treatment program or mental health
1025 court program under this section shall contract with the county
1026 or appropriate governmental entity. The terms of the contract
1027 shall include, but not be limited to, the requirements
1028 established for private entities under s. 948.15(3). This
1029 requirement does not apply to services provided by the
1030 Department of Veterans' Affairs or the United States Department
1031 of Veterans Affairs.

1032 Section 19. Section 948.21, Florida Statutes, is amended
1033 to read:

1034 948.21 Condition of probation or community control;
1035 military servicemembers and veterans.—

1036 (1) Effective for a probationer or community controllee
1037 whose crime is ~~was~~ committed on or after July 1, 2012, and who
1038 is a veteran, as defined in s. 1.01, or servicemember, as
1039 defined in s. 250.01, who suffers from a military service-
1040 related mental illness, traumatic brain injury, substance abuse



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1041 disorder, or psychological problem, the court may, in addition
1042 to any other conditions imposed, impose a condition requiring
1043 the probationer or community controllee to participate in a
1044 treatment program capable of treating the probationer's
1045 ~~probationer~~ or community controllee's mental illness, traumatic
1046 brain injury, substance abuse disorder, or psychological
1047 problem.

1048 (2) Effective for a probationer or community controllee
1049 whose crime is committed on or after July 1, 2016, and who is a
1050 veteran, as defined in s. 1.01, including a veteran who is
1051 discharged or released under a general discharge, or
1052 servicemember, as defined in s. 250.01, who suffers from a
1053 military service-related mental illness, traumatic brain injury,
1054 substance abuse disorder, or psychological problem, the court
1055 may, in addition to any other conditions imposed, impose a
1056 condition requiring the probationer or community controllee to
1057 participate in a treatment program capable of treating the
1058 probationer or community controllee's mental illness, traumatic
1059 brain injury, substance abuse disorder, or psychological
1060 problem.

1061 (3) The court shall give preference to treatment programs
1062 for which the probationer or community controllee is eligible
1063 through the United States Department of Veterans Affairs or the
1064 Florida Department of Veterans' Affairs. The Department of
1065 Corrections is not required to spend state funds to implement
1066 this section.



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1067 Section 20. Section 985.345, Florida Statutes, is amended
 1068 to read:

1069 985.345 Delinquency pretrial intervention programs
 1070 ~~program.~~—

1071 (1) (a) Notwithstanding any other ~~provision of law to the~~
 1072 ~~contrary~~, a child who is charged with a felony of the second or
 1073 third degree for purchase or possession of a controlled
 1074 substance under chapter 893; tampering with evidence;
 1075 solicitation for purchase of a controlled substance; or
 1076 obtaining a prescription by fraud, and who has not previously
 1077 been adjudicated for a felony, is eligible for voluntary
 1078 admission into a delinquency pretrial substance abuse education
 1079 and treatment intervention program, including a treatment-based
 1080 drug court program established pursuant to s. 397.334, approved
 1081 by the chief judge or alternative sanctions coordinator of the
 1082 circuit to the extent that funded programs are available, for a
 1083 period based on the program requirements and the treatment
 1084 services that are suitable for the offender, upon motion of
 1085 either party or the court's own motion. However, if the state
 1086 attorney believes that the facts and circumstances of the case
 1087 suggest the child's involvement in the dealing and selling of
 1088 controlled substances, the court shall hold a preadmission
 1089 hearing. If the state attorney establishes by a preponderance of
 1090 the evidence at such hearing that the child was involved in the
 1091 dealing and selling of controlled substances, the court shall
 1092 deny the child's admission into a delinquency pretrial



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1093 intervention program.

1094 (b)(2) While enrolled in a delinquency pretrial
1095 intervention program authorized by this subsection ~~section~~, a
1096 child is subject to a coordinated strategy developed by a drug
1097 court team under s. 397.334(4). The coordinated strategy may
1098 include a protocol of sanctions that may be imposed upon the
1099 child for noncompliance with program rules. The protocol of
1100 sanctions may include, but is not limited to, placement in a
1101 substance abuse treatment program offered by a licensed service
1102 provider as defined in s. 397.311 or serving a period of secure
1103 detention under this chapter. The coordinated strategy must be
1104 provided in writing to the child before the child agrees to
1105 enter the pretrial treatment-based drug court program or other
1106 pretrial intervention program. A ~~Any~~ child whose charges are
1107 dismissed after successful completion of the treatment-based
1108 drug court program, if otherwise eligible, may have his or her
1109 arrest record and plea of nolo contendere to the dismissed
1110 charges expunged under s. 943.0585.

1111 (c)(3) At the end of the delinquency pretrial intervention
1112 period, the court shall consider the recommendation of the state
1113 attorney and the program administrator as to disposition of the
1114 pending charges. The court shall determine, by written finding,
1115 whether the child has successfully completed the delinquency
1116 pretrial intervention program. Notwithstanding the coordinated
1117 strategy developed by a drug court team pursuant to s.
1118 397.334(4), if the court finds that the child has not



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1119 | successfully completed the delinquency pretrial intervention
1120 | program, the court may order the child to continue in an
1121 | education, treatment, or drug testing ~~urine monitoring~~ program
1122 | if resources and funding are available or order that the charges
1123 | revert to normal channels for prosecution. The court may dismiss
1124 | the charges upon a finding that the child has successfully
1125 | completed the delinquency pretrial intervention program.

1126 | (2) (a) Notwithstanding any other law, a child who has been
1127 | identified as having a mental illness and who has not been
1128 | previously adjudicated for a felony is eligible for voluntary
1129 | admission into a delinquency pretrial mental health court
1130 | intervention program, established pursuant to s. 394.47892,
1131 | approved by the chief judge of the circuit, for a period to be
1132 | determined by the court, based on the clinical needs of the
1133 | child, upon motion of either party or the court's own motion if
1134 | the child is charged with:

- 1135 | 1. A misdemeanor;
1136 | 2. A nonviolent felony, as defined in s. 948.01(8);
1137 | 3. Resisting an officer with violence under s. 843.01, if
1138 | the law enforcement officer and state attorney consent to the
1139 | child's participation;
1140 | 4. Battery on a law enforcement officer under 784.07, if
1141 | the law enforcement officer and state attorney consent to the
1142 | child's participation; or
1143 | 5. Aggravated assault, if the victim and state attorney
1144 | consent to the child's participation.



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1145 (b) At the end of the delinquency pretrial mental health
 1146 court intervention period, the court shall consider the
 1147 recommendation of the state attorney and the program
 1148 administrator as to disposition of the pending charges. The
 1149 court shall determine, by written finding, whether the child has
 1150 successfully completed the program. If the court finds that the
 1151 child has not successfully completed the program, the court may
 1152 order the child to continue in an education, treatment, or
 1153 monitoring program if resources and funding are available or
 1154 order that the charges revert to normal channels for
 1155 prosecution. The court may dismiss the charges upon a finding
 1156 that the child has successfully completed the program.

1157 (c) A child whose charges are dismissed after successful
 1158 completion of the delinquency pretrial mental health court
 1159 intervention program, if otherwise eligible, may have his or her
 1160 criminal history record for such charges expunged under s.
 1161 943.0585.

1162 (3)-(4) Any entity, whether public or private, providing
 1163 pretrial substance abuse education, treatment intervention, drug
 1164 testing, or a mental health court ~~and a urine monitoring program~~
 1165 under this section must contract with the county or appropriate
 1166 governmental entity, and the terms of the contract must include,
 1167 but need not be limited to, the requirements established for
 1168 private entities under s. 948.15(3). It is the intent of the
 1169 Legislature that public or private entities providing substance
 1170 abuse education and treatment intervention programs involve the



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1171 active participation of parents, schools, churches, businesses,
1172 law enforcement agencies, and the department or its contract
1173 providers.

1174 Section 21. For the purpose of incorporating the
1175 amendments made by this act to sections 948.01 and 948.06,
1176 Florida Statutes, in references thereto, paragraph (a) of
1177 subsection (3) and subsection (5) of section 397.334, Florida
1178 Statutes, are reenacted to read:

1179 397.334 Treatment-based drug court programs.—

1180 (3) (a) Entry into any postadjudicatory treatment-based
1181 drug court program as a condition of probation or community
1182 control pursuant to s. 948.01, s. 948.06, or s. 948.20 must be
1183 based upon the sentencing court's assessment of the defendant's
1184 criminal history, substance abuse screening outcome, amenability
1185 to the services of the program, total sentence points, the
1186 recommendation of the state attorney and the victim, if any, and
1187 the defendant's agreement to enter the program.

1188 (5) Treatment-based drug court programs may include
1189 pretrial intervention programs as provided in ss. 948.08,
1190 948.16, and 985.345, treatment-based drug court programs
1191 authorized in chapter 39, postadjudicatory programs as provided
1192 in ss. 948.01, 948.06, and 948.20, and review of the status of
1193 compliance or noncompliance of sentenced offenders through a
1194 treatment-based drug court program. While enrolled in a
1195 treatment-based drug court program, the participant is subject
1196 to a coordinated strategy developed by a drug court team under



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1197 subsection (4). The coordinated strategy may include a protocol
1198 of sanctions that may be imposed upon the participant for
1199 noncompliance with program rules. The protocol of sanctions may
1200 include, but is not limited to, placement in a substance abuse
1201 treatment program offered by a licensed service provider as
1202 defined in s. 397.311 or in a jail-based treatment program or
1203 serving a period of secure detention under chapter 985 if a
1204 child or a period of incarceration within the time limits
1205 established for contempt of court if an adult. The coordinated
1206 strategy must be provided in writing to the participant before
1207 the participant agrees to enter into a treatment-based drug
1208 court program.

1209 Section 22. For the purpose of incorporating the amendment
1210 made by this act to section 948.06, Florida Statutes, in a
1211 reference thereto, paragraph (b) of subsection (2) of section
1212 948.012, Florida Statutes, is reenacted to read:

1213 948.012 Split sentence of probation or community control
1214 and imprisonment.—

1215 (2) The court may also impose a split sentence whereby the
1216 defendant is sentenced to a term of probation which may be
1217 followed by a period of incarceration or, with respect to a
1218 felony, into community control, as follows:

1219 (b) If the offender does not meet the terms and conditions
1220 of probation or community control, the court may revoke, modify,
1221 or continue the probation or community control as provided in s.
1222 948.06. If the probation or community control is revoked, the



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1223 | court may impose any sentence that it could have imposed at the
1224 | time the offender was placed on probation or community control.
1225 | The court may not provide credit for time served for any portion
1226 | of a probation or community control term toward a subsequent
1227 | term of probation or community control. However, the court may
1228 | not impose a subsequent term of probation or community control
1229 | which, when combined with any amount of time served on preceding
1230 | terms of probation or community control for offenses pending
1231 | before the court for sentencing, would exceed the maximum
1232 | penalty allowable as provided in s. 775.082. Such term of
1233 | incarceration shall be served under applicable law or county
1234 | ordinance governing service of sentences in state or county
1235 | jurisdiction. This paragraph does not prohibit any other
1236 | sanction provided by law.

1237 | Section 23. This act shall take effect July 1, 2016.