

1 A bill to be entitled
2 An act relating to behavioral health services for
3 defendants with mental illness; amending s. 394.658,
4 F.S.; exempting certain fiscally constrained counties
5 from local match requirements for specified grants;
6 creating s. 916.1095, F.S.; creating the Law
7 Enforcement Behavioral Health Intervention Unit Pilot
8 Program in certain counties for a specified purpose
9 and number of years; requiring the sheriffs' offices
10 in such counties to establish behavioral health
11 intervention units; requiring the sheriffs to assign
12 deputies to the units; providing training
13 requirements; requiring the units to consult with
14 specified professionals for certain services;
15 providing duties of the units; requiring annual
16 reports; providing reporting requirements; providing
17 an expiration date; creating s. 916.135, F.S.;
18 creating the Misdemeanor Mental Health Diversion Pilot
19 Program by a specified date in certain counties for a
20 specified purpose and number of years; providing
21 applicability; providing definitions; outlining a
22 process for the pilot program; requiring the speedy
23 trial period to be immediately tolled when a defendant
24 is involuntarily committed; requiring the court to
25 order a defendant to comply with certain mental health

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26 conditions of pretrial release; requiring the state
27 attorney to consider dismissal of charges upon a
28 defendant's successful completion of mental health
29 treatment; requiring the court to consider specified
30 information before a defendant is returned to jail;
31 requiring annual reports; providing reporting
32 requirements; providing an expiration date; providing
33 an effective date.

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

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37 Section 1. Subsection (2) of section 394.658, Florida
38 Statutes, is amended to read:

39 394.658 Criminal Justice, Mental Health, and Substance
40 Abuse Reinvestment Grant Program requirements.—

41 (2) (a) As used in this subsection, the term "available
42 resources" includes in-kind contributions from participating
43 counties.

44 (b) A 1-year planning grant may not be awarded unless the
45 applicant county makes available resources in an amount equal to
46 the total amount of the grant. A planning grant may not be used
47 to supplant funding for existing programs. For fiscally
48 constrained counties, the available resources may be at 50
49 percent of the total amount of the grant, except that fiscally
50 constrained counties that are awarded grants to establish a law

51 enforcement behavioral health intervention unit under s.
52 916.1095 or to establish programs to divert misdemeanor
53 defendants with mental health disorders from jails to community-
54 based treatment under s. 916.135 may not be required to provide
55 local matching funds.

56 (c) A 3-year implementation or expansion grant may not be
57 awarded unless the applicant county or consortium of counties
58 makes available resources equal to the total amount of the
59 grant. For fiscally constrained counties, the available
60 resources may be at 50 percent of the total amount of the grant,
61 except that fiscally constrained counties that are awarded
62 grants to establish a law enforcement behavioral health
63 intervention unit under s. 916.1095 or to establish programs to
64 divert misdemeanor defendants with mental health disorders from
65 jails to community-based treatment under s. 916.135 may not be
66 required to provide local matching funds. This match shall be
67 used for expansion of services and may not supplant existing
68 funds for services. An implementation or expansion grant must
69 support the implementation of new services or the expansion of
70 services and may not be used to supplant existing services.

71 Section 2. Section 916.1095, Florida Statutes, is created
72 to read:

73 916.1095 Law Enforcement Behavioral Health Intervention
74 Unit Pilot Program.-

75 (1) Subject to the receipt of grant funds and the

76 availability of current funding and existing services in each
77 county, the Law Enforcement Behavioral Health Intervention Unit
78 Pilot Program is established in Flagler, Putnam, St. Johns, and
79 Volusia Counties for a period of 3 years. The purpose of the
80 pilot program is to divert individuals with mental health,
81 substance use, or co-occurring mental health and substance use
82 disorders into community-based treatment instead of the criminal
83 justice system and to prevent and reduce unnecessary escalation
84 and use of force in situations involving such individuals.

85 (2) Subject to the receipt of grant funds and the
86 availability of current resources and existing services in each
87 county, on or before October 1, 2021, the sheriff's office in
88 Flagler, Putnam, St. Johns, and Volusia Counties shall each
89 establish a behavioral health intervention unit.

90 (3) Based on the resources and needs of the county, each
91 sheriff shall designate an appropriate number of deputies to be
92 assigned to the behavioral health intervention unit who shall
93 receive special training to:

94 (a) Understand the needs of individuals with mental
95 health, substance use, or co-occurring mental health and
96 substance use disorders.

97 (b) Respond to incidents involving such individuals.

98 (4) Training for deputies in the behavioral health
99 intervention unit shall be developed in consultation with a
100 statewide or national organization with expertise in mental

101 health crisis intervention. The training shall improve the
102 deputies' knowledge and skills as first responders to incidents
103 involving individuals with mental health, substance use, or co-
104 occurring mental health and substance use disorders, including
105 de-escalation techniques to ensure safety and decrease the
106 number of use of force incidents.

107 (5) Each behavioral health intervention unit shall consult
108 with a clinical psychologist, psychiatric nurse, or clinical
109 social worker licensed in this state to assist and support
110 deputies in crisis intervention and engaging individuals in
111 treatment and aftercare services.

112 (6) Each behavioral health intervention unit shall:

113 (a) Respond to emergency calls involving individuals
114 suspected of having a mental health, substance use, or co-
115 occurring mental health and substance use disorder.

116 (b) Implement strategies to engage such individuals in
117 treatment services for a mental health, substance use, or co-
118 occurring mental health and substance use disorder.

119 (c) In conjunction with a clinical psychologist,
120 psychiatric nurse, or clinical social worker licensed in this
121 state, develop a support services plan to assist individuals
122 with treatment, including, but not limited to, transportation
123 assistance, housing assistance, and educational or employment
124 opportunities.

125 (d) Implement strategies to monitor and maintain regular

126 contact with individuals engaged in treatment to ensure their
127 continued participation in treatment and aftercare services.

128 (7) By December 30, 2022, and by December 30 in each
129 subsequent year for the duration of the pilot program, the
130 sheriff's office in Flagler, Putnam, St. Johns, and Volusia
131 Counties shall each submit a report to the Governor, the
132 President of the Senate, and the Speaker of the House of
133 Representatives. The report shall include, but need not be
134 limited to:

135 (a) The number of emergency calls that the behavioral
136 health intervention unit responded to since October 1 of the
137 previous year and the disposition of those calls, including the
138 number of:

139 1. Arrests made and the criminal offense or offenses for
140 which an individual was arrested.

141 2. Individuals diverted to treatment services.

142 3. Individuals who refused treatment services.

143 4. Use of force incidents by a behavioral health
144 intervention unit deputy or other involved law enforcement
145 officer.

146 (b) The number and location of support services providers
147 that provided services to individuals under this section.

148 (c) The number of individuals who engaged in treatment and
149 aftercare services as a result of the pilot program.

150 (d) The average cost for services for individuals served.

151 (e) The per diem for a jail bed in the county's detention
 152 facility.

153 (f) The number of individuals who engaged in treatment and
 154 aftercare services who:

155 1. Initiated an emergency call for service within 3 months
 156 after participating in treatment or aftercare services.

157 2. Were arrested for a criminal offense within 3 months
 158 after participating in treatment or aftercare services.

159 (g) Recommendations for improving the pilot program and
 160 behavioral health intervention unit.

161 (8) This section shall expire on December 31, 2024.

162 Section 3. Section 916.135, Florida Statutes, is created
 163 to read:

164 916.135 Misdemeanor Mental Health Diversion Pilot
 165 Program.—

166 (1) ESTABLISHMENT AND PURPOSE.—

167 (a) Subject to the receipt of grant funds and the
 168 availability of current resources and existing services in each
 169 county, on or before October 1, 2021, the Misdemeanor Mental
 170 Health Diversion Pilot Program shall be established in Flagler,
 171 Putnam, St. Johns, and Volusia Counties for a period of 3 years.
 172 The purpose of the program is to provide defendants charged with
 173 a misdemeanor offense or ordinance violation who may have a
 174 mental health disorder the opportunity to be evaluated and to
 175 receive appropriate treatment and services, to improve access to

176 community-based treatment and services, and to decrease criminal
 177 justice spending by reducing recidivism.

178 (b) This pilot program does not replace any existing
 179 mental health court or mental health diversion program currently
 180 operating in Flagler, Putnam, St. Johns, or Volusia Counties,
 181 but instead may be established in addition to such program as
 182 necessary to most efficiently identify and provide treatment to
 183 defendants with mental health disorders.

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

185 (a) "Defendant" means an adult who has been charged with a
 186 misdemeanor offense or an ordinance violation under the laws of
 187 this state or any of its political subdivisions.

188 (b) "Jail" means a county or city jail, county or city
 189 stockade, or any other county or city facility used to detain
 190 persons charged with or convicted of a misdemeanor offense or an
 191 ordinance violation.

192 (c) "Misdemeanor court" means a county court or any court
 193 presiding over misdemeanor offenses or ordinance violations
 194 under the laws of this state or any of its political
 195 subdivisions.

196 (3) INITIAL SCREENING PROCESS.—Within 24 hours after a
 197 defendant is booked into a jail, the jail's corrections or
 198 medical staff; a physician, clinical psychologist, psychiatric
 199 nurse, or clinical social worker licensed in this state; or a
 200 telehealth provider as defined in s. 456.47(1) may evaluate the

201 defendant using a standardized, validated mental health
202 screening instrument to determine if there is an indication that
203 the defendant has a mental health disorder. When possible, such
204 evaluation shall be completed before a defendant's first
205 appearance before a judge.

206 (a) If the evaluation indicates that the defendant may
207 have a mental health disorder and he or she meets the criteria
208 under s. 394.463 for involuntary examination under The Baker
209 Act, a professional certificate for involuntary examination
210 shall be issued and the defendant shall be transported within 72
211 hours to a crisis stabilization unit for further evaluation.

212 (b) If the evaluation indicates that the defendant may
213 have a mental health disorder, but the defendant does not meet
214 the criteria for involuntary examination under The Baker Act,
215 the defendant shall be provided the opportunity to be
216 voluntarily committed to a crisis stabilization unit for further
217 evaluation of his or her mental health disorder. A defendant's
218 voluntary commitment shall be by written agreement, pending the
219 availability of bed space at a crisis stabilization unit.

220 (c) If the evaluation indicates that the defendant may
221 have a mental health disorder, but the defendant does not meet
222 the criteria for involuntary examination under The Baker Act,
223 does not voluntarily agree to enter a crisis stabilization unit,
224 or is waiting to voluntarily enter a crisis stabilization unit
225 pending bed space, and the defendant remains in jail custody,

226 the defendant shall receive continued mental health treatment by
227 the jail's corrections or medical staff; a physician, clinical
228 psychologist, psychiatric nurse, or clinical social worker
229 licensed in this state; or a telehealth provider as defined in
230 s. 456.47(1). Alternatively, if such a defendant is released
231 from jail custody, the defendant shall be required to comply
232 with any court-ordered, community-based mental health assessment
233 or treatment as a condition of the defendant's pretrial release.

234 (d) A transport order entered by the misdemeanor court
235 under paragraph (a) or paragraph (b) to a crisis stabilization
236 unit may be made with a hold for jail custody so that the crisis
237 stabilization unit can only release the defendant back to jail
238 custody, unless the misdemeanor court subsequently orders
239 otherwise. Alternatively, the misdemeanor court may request that
240 the defendant be transported back to appear before the
241 misdemeanor court, depending on the outcome of the evaluation at
242 the crisis stabilization unit and the availability of other
243 services or appropriate diversion programs in the county.

244 (4) SEPARATE MENTAL HEALTH COURT DOCKET.—

245 (a) The misdemeanor court shall place any defendant whose
246 initial evaluation under subsection (3) indicates a mental
247 health disorder on a separate mental health court docket and set
248 a review hearing within 2 weeks after the date he or she entered
249 a crisis stabilization unit or, if the defendant did not enter a
250 crisis stabilization unit, within 1 week after the date of his

251 or her initial evaluation.

252 (b) If a professional certificate for involuntary
253 evaluation of a defendant under The Baker Act is issued, the
254 speedy trial period is immediately tolled until the misdemeanor
255 court finds the defendant has completed all involuntary
256 evaluation, commitment, and treatment mandated under The Baker
257 Act.

258 (5) INPATIENT AND OUTPATIENT TREATMENT.—Once a defendant
259 enters a crisis stabilization unit under this section, either
260 voluntarily or involuntarily, the defendant shall be assessed
261 and evaluated to determine whether he or she meets the criteria
262 for involuntary commitment or involuntary outpatient treatment
263 under The Baker Act.

264 (a) If either set of criteria is met, the crisis
265 stabilization unit staff or staff at the local mental health
266 treatment center may forward to the misdemeanor court a
267 discharge plan or an outpatient treatment plan, as appropriate,
268 as soon as a plan is developed.

269 (b) If the defendant does not meet either set of criteria,
270 the crisis stabilization unit staff or staff at the local mental
271 health treatment center may issue an outpatient treatment plan
272 and promptly forward it to the misdemeanor court, or may notify
273 the misdemeanor court that no treatment is necessary.

274 (c) Upon receipt of a discharge plan or an outpatient
275 treatment plan, the misdemeanor court may consider releasing the

276 defendant on his or her own recognizance on the condition that
277 he or she comply with the discharge plan or outpatient treatment
278 plan and any additional court-imposed conditions, including
279 electronic monitoring.

280 (d) If a defendant's initial evaluation indicates a mental
281 health disorder, but he or she does not voluntarily or
282 involuntarily enter a crisis stabilization unit, the misdemeanor
283 court shall order the defendant to complete a follow-up
284 assessment within 48 hours after his or her release and to
285 comply with any recommended treatment at a local mental health
286 treatment center or a telehealth provider as defined in s.
287 456.47(1) as a condition of pretrial release. Alternatively, if
288 the defendant indicates that he or she has access to a private
289 physician, clinical psychologist, psychiatric nurse, or clinical
290 social worker licensed in this state, the misdemeanor court may
291 require the defendant to complete the follow-up assessment and
292 to comply with any recommended treatment from such private
293 provider.

294 (e) If, at any time, a crisis stabilization unit, local
295 mental health treatment center, telehealth provider as defined
296 in s. 456.47(1), or private physician, clinical psychologist,
297 psychiatric nurse, or clinical social worker licensed in this
298 state notifies the misdemeanor court that a defendant does not
299 have a mental health disorder or is not a candidate for mental
300 health treatment, the defendant's case shall be removed from the

301 mental health court docket, placed on the misdemeanor court's
302 regular court docket, and disposed of pursuant to the Florida
303 Rules of Criminal Procedure.

304 (6) COORDINATION WITH LAW ENFORCEMENT BEHAVIORAL HEALTH
305 INTERVENTION UNITS.—The applicable law enforcement behavioral
306 health intervention unit, as established under s. 916.1095,
307 shall be promptly notified when a defendant with an indication
308 of a mental health disorder is released from a jail or crisis
309 stabilization unit. Within 48 hours after receiving notification
310 of such a defendant's release, the law enforcement behavioral
311 health intervention unit shall attempt to make contact with the
312 defendant, and shall continue efforts to maintain regular
313 contact with the defendant thereafter, to offer and provide
314 reasonable assistance to ensure the defendant's continued
315 participation in treatment and aftercare services.

316 (7) SUCCESSFUL COMPLETION OF MENTAL HEALTH TREATMENT.—Upon
317 a defendant's successful completion of all treatment
318 recommendations from any mental health evaluation or assessment
319 completed under this section, the state attorney shall consider
320 dismissing the defendant's misdemeanor charge or charges. If the
321 state attorney determines that dismissal is not appropriate, the
322 parties shall consider referring the defendant's case to a
323 separate mental health court or other appropriate diversion
324 program, if available. Alternatively, the defendant may avail
325 himself or herself of the Florida Rules of Criminal Procedure to

326 contest the misdemeanor charge or charges.

327 (8) FAILURE TO COMPLETE MENTAL HEALTH TREATMENT.—

328 (a) If a defendant fails to comply with any aspect of his
329 or her pretrial release, including complying with a follow-up
330 assessment and recommended treatment or a discharge or
331 outpatient treatment plan, the misdemeanor court shall consider
332 information from any mental health service provider or law
333 enforcement behavioral health intervention unit member who had
334 contact with the defendant in determining whether further
335 efforts aimed at improving the defendant's compliance may be
336 successful before returning the defendant to jail.

337 (b) If the misdemeanor court determines that further
338 efforts to improve compliance are not appropriate, the
339 defendant's case shall be removed from the mental health court
340 docket, placed on the misdemeanor court's regular court docket,
341 and disposed of pursuant to the Florida Rules of Criminal
342 Procedure.

343 (9) ANNUAL REPORTS.—By December 30, 2022, and by December
344 30 in each subsequent year for the duration of the pilot
345 program, Flagler, Putnam, St. Johns, and Volusia Counties shall
346 each submit a report to the Governor, the President of the
347 Senate, and the Speaker of the House of Representatives. The
348 report shall include, but need not be limited to, the number of:

349 (a)1. Defendants who were initially evaluated for a mental
350 health disorder within 24 hours after being booked into a jail

351 and the number of defendants who were evaluated before a first
 352 appearance before a judge.

353 2. Among these defendants, the number evaluated by:

354 a. Jail or corrections staff.

355 b. A physician, clinical psychologist, psychiatric nurse,
 356 or clinical social worker licensed in this state.

357 c. A telehealth provider as defined in s. 456.47(1).

358 (b)1. Defendants whose initial evaluation after booking
 359 indicated a mental health disorder and the type of mental health
 360 disorder indicated for each such defendant.

361 2. Among these defendants, the number who:

362 a. Voluntarily entered a crisis stabilization unit.

363 b. Involuntarily entered a crisis stabilization unit.

364 c. Did not enter a crisis stabilization unit within 72
 365 hours but later entered such unit either voluntarily or
 366 involuntarily.

367 d. Never entered a crisis stabilization unit.

368 (c) Defendants who, after entering a crisis stabilization
 369 unit, met the criteria for:

370 1. Involuntary commitment under The Baker Act; or

371 2. Involuntary outpatient treatment under The Baker Act.

372 (d)1. Defendants who entered a crisis stabilization unit
 373 but did not meet the criteria for involuntary commitment or
 374 treatment under The Baker Act.

375 2. Among these defendants, the number who:

- 376 a. Received an outpatient treatment plan.
- 377 b. Were not diagnosed with a mental health disorder or
- 378 recommended for further treatment.
- 379 (e)1. Defendants whom the misdemeanor court released from
- 380 jail conditioned upon completing a follow-up assessment within
- 381 48 hours and complying with any recommended treatment.
- 382 2. Among these defendants, the number who:
- 383 a. Failed to complete the required assessment.
- 384 b. Completed the required assessment but failed to comply
- 385 with the recommended treatment.
- 386 c. Completed the required assessment but were not
- 387 diagnosed with a mental health disorder or recommended for
- 388 further treatment.
- 389 (f) Defendants who successfully completed a recommended
- 390 mental health treatment plan after release from a crisis
- 391 stabilization unit and, for those who did not enter a crisis
- 392 stabilization unit, after release from jail.
- 393 (g) Defendants who were unsuccessful in completing a
- 394 recommended mental health treatment plan after release from a
- 395 crisis stabilization unit and, for those who did not enter a
- 396 crisis stabilization unit, after release from jail.
- 397 (h)1. Defendants who successfully completed a recommended
- 398 mental health treatment plan who committed another criminal
- 399 offense during the pilot program's reporting period.
- 400 2. Among these defendants, the number who:

401 a. Committed the same offense for which they entered the
 402 pilot program.

403 b. Committed a different offense.

404 (i)1. Defendants identified as having a mental health
 405 disorder who successfully completed mental health treatment and
 406 the type and number of each offense with which each defendant
 407 was charged.

408 2. Defendants identified as having a mental health
 409 disorder who failed to complete mental health treatment and the
 410 type and number of each offense with which each defendant was
 411 charged.

412 (10) EXPIRATION.—This section shall expire on December 31,
 413 2024.

414 Section 4. This act shall take effect July 1, 2021.