

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4037/P1dn
RLR:jld:jf

November 15, 2001

Dan Rossmiller:

There are a couple of items in the bill that I would like to draft in greater detail for the next draft:

1. Requirements relating to providers of treatment services.
2. Instructions on the circumstances under which private and public insurance must cover treatment or assessments.
3. The bill directs the department of corrections to pay for treatment and assessments out of a specified current appropriation. I would like to explore whether another current appropriation account would be a more appropriate source, or whether the bill should create a new appropriation account.

Please note the following resolutions of several issues in the bill:

1. The bill does not limit the number of times an individual may have a conviction record for possession expunged. Should it?
2. Please review proposed s. 961.476 (6) (b) to see if it provides the department of corrections sufficient guidance for writing a rule on standards for determining whether a person is unamenable to treatment.
3. The bill provides the same treatment provisions for convictions for attempt as for convictions for possession of controlled substances. Should it?
4. We had discussed applying the treatment provisions to ordinance violations. This bill does not address ordinance violations, because currently the only available penalty for an ordinance violation is a forfeiture. The bill would have to create a probation program operated by counties and municipalities in order for a court to order probation for an ordinance violation. Since an ordinance violation does not result in a conviction, a person who violates an ordinance will not have a conviction record. Further, probation and treatment (which the person has to pay for) could be viewed as more onerous than a forfeiture.
5. The bill requires that a treatment provider be an "approved treatment facility," which is defined as any publicly or privately operated treatment facility or unit thereof

approved by the department [of health and family services] for the treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons. Given that some treatment will likely consist only of education and prevention, should all providers be required to be approved treatment facilities?

6. The bill provides for inpatient treatment as well as outpatient treatment, although it limits inpatient treatment to cases in which inpatient treatment is needed to address special detoxification or relapse situations or severe dependence. Do you want any further limitations on inpatient treatment, particularly for persons who are incarcerated? For example, should a judge be able to order the department of corrections to send a person to an inpatient drug treatment facility at department expense while the person is incarcerated?

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