

The Florida Drug Treatment Initiative

1 **TITLE:** Right to Treatment and Rehabilitation for Nonviolent Drug Offenses

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3 **SUMMARY:** Individuals charged or convicted of possessing or purchasing controlled
4 substances or drug paraphernalia may elect appropriate treatment as defined,
5 instead of sentencing or incarceration, for first two offenses; discretionary with court
6 thereafter. Excludes individuals committing serious crimes in same episode or
7 convicted or in prison for violent crimes in past five years. Individual unamenable to
8 treatment may be prosecuted or sentenced. Upon successful completion or eighteen
9 months in treatment, no prosecution or sentencing. Legislative implementation.

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12 **TEXT:**

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Article I, Section 26, Florida Constitution, is hereby created to read as follows:

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Right to Treatment and Rehabilitation

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(a) Any individual charged with or convicted of illegally possessing or
19 purchasing a controlled substance or drug paraphernalia may elect to
20 receive appropriate treatment as described in subsection (c), instead of
21 being sentenced or incarcerated, which shall be a matter of right for the
22 first and second offense after enactment of this section and at the
23 discretion of the court for subsequent offenses. If more than one
24 qualifying offense under this section occurs during a single criminal
25 episode, it shall be considered a single offense. For purposes of this
26 section, an individual who elects to receive appropriate treatment prior
27 to conviction shall be deemed to have waived the right to a speedy trial.

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(b) This section shall not apply to any individual who in connection with the
29 same criminal episode as the drug offense described in (a) is also
30 charged with or convicted of: any felony; any misdemeanor involving
31 theft, violence or the threat of violence; trafficking, sale, manufacture, or
32 delivery of a controlled substance; purchase or possession with intent to
33 sell, manufacture, or deliver a controlled substance or drug
34 paraphernalia; or operating a vehicle under the influence of alcohol or a
35 controlled substance. This section also shall not apply to any individual
36 who, within five years before committing the drug possession offense,
37 has been convicted of, or in prison for, one of the serious or violent
38 crimes described in Section 775.084(c)(1), Florida Statutes (2000), or
39 such other violent crimes as may be provided by law.

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- 1 (c) For purposes of this section, "appropriate treatment" means a state-
2 approved drug treatment and/or rehabilitation treatment program, or
3 set of programs, designed to reduce or eliminate substance abuse or drug
4 dependency and to increase employability. Such program or programs
5 shall include, as deemed appropriate, access to vocational training,
6 literacy training, family counseling, mental health services, or similar
7 support services. The determination of the type and duration of the
8 appropriate treatment program or programs that an individual shall
9 receive, and methods of monitoring the individual's progress while in
10 treatment, shall be made by a qualified professional as defined in
11 Section 397.311(25), Florida Statutes (2000).
- 12 (d) An individual receiving appropriate treatment under this section may be
13 transferred to a different program due to violations of program rules or
14 unsuitability to the form of treatment initially prescribed. An individual
15 may be removed from appropriate treatment if, after multiple programs
16 and violations, and upon an independent evaluation by a qualified
17 professional as defined in Section 397.311(25), Florida Statutes (2000),
18 the individual is found by the court to be unamenable to treatment and
19 rehabilitation. Any such individual removed from appropriate
20 treatment who has been convicted of the drug possession offense may be
21 sentenced for the offense. Prosecution may be recommenced against any
22 individual removed from appropriate treatment who has not yet been
23 convicted, and a conviction resulting from such prosecution may result
24 in a criminal sentence without regard to this section.
- 25 (e) Appropriate treatment shall be terminated upon an individual's
26 successful completion of the prescribed course of appropriate treatment,
27 or upon an independent evaluation and finding by a qualified
28 professional as defined in Section 397.311(25), Florida Statutes (2000),
29 that an individual's appropriate treatment has been successful, or
30 eighteen months after the date the individual elected to receive
31 appropriate treatment, whichever occurs first. Upon termination of
32 appropriate treatment, the individual may not be prosecuted, sentenced,
33 or placed under continued court supervision for the offense which led to
34 the appropriate treatment.
- 35 (f) This section shall become effective on July 1 of the year following
36 passage by the voters, and shall apply prospectively only to drug
37 possession offenses occurring on or after that date.
- (g) The Legislature shall enact such laws as necessary to implement this
section.