



## Florida Drug Court Availability and Eligibility

**IMPORTANT NOTE: Laws change frequently, and this may not be an up-to-date description of drug court statutes, availability, or eligibility requirements. Talk with a lawyer in your state if you have questions about drug court availability and eligibility.**

Statute	Available for:
<p><b>F.S. § 948.08(6)</b></p>	<p><b>Felony Pre-trial Intervention Program.</b> Available to defendants who</p> <ul style="list-style-type: none"> <li>• Are first-time offenders (no prior felony convictions), <i>and</i></li> <li>• Have a substance abuse problem or are charged with a felony of the second or third degree for purchase or possession of a controlled substance under F. S. chapter 893, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud, <i>and</i></li> <li>• Are not charged with a crime involving violence (including, but not limited to, murder sexual battery, robbery, carjacking, home-invasion robbery), <i>and</i></li> <li>• Voluntarily agree to be admitted to a drug court program.</li> </ul> <p>On a motion of the defendant, the prosecutor, or the court, defendants who meet the above criteria can be admitted to a treatment-based drug court program that lasts for up to a year, with two important limitations:</p> <ul style="list-style-type: none"> <li>• If the defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial, but rejected that offer, the court or the state attorney may deny the defendant admission to drug court.</li> <li>• If the state attorney believes the defendant was dealing or selling drugs, the court must hold a hearing to determine if this was the case. If the state shows, by a preponderance of the evidence, that the defendant was involved with selling or dealing drugs, the court must deny the defendant entrance to the drug court program.</li> </ul> <p>If the court finds that the defendant successfully completes the pretrial intervention program, the charges are dismissed. The defendant can also have his arrest record and plea of nolo contendere to the dismissed charges expunged under FS § 943.0585. If the court finds that the defendant has not successfully completed the program, it can order continued treatment (including placement in a jail-based program) or order that charging and prosecution be resumed.</p>
<p><b>F.S. § 948.16</b></p>	<p><b>Misdemeanor Pre-trial Substance Abuse Education and Treatment Intervention Program.</b> Available to defendants who</p> <ul style="list-style-type: none"> <li>• Are charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under F.S. chapter 893, <i>and</i></li> <li>• Have not have previously been convicted of a felony, <i>and</i></li> <li>• Have not been admitted to a pretrial program before, <i>and</i></li> <li>• Voluntarily agree to be admitted to a drug court program.</li> </ul>

	<p>On a motion of the defendant, the prosecutor, or the court, defendants who meet the above criteria can be admitted to a treatment-based drug court program, except that if the state attorney believes the defendant was dealing or selling drugs, the court must hold a hearing to determine if this was the case. If the state shows, by a preponderance of the evidence, that the defendant was involved with selling or dealing drugs, the court must deny the defendant entrance to the drug court program.</p> <p>If the court finds that the defendant successfully completes the pretrial intervention program, the charges are dismissed. The defendant can also have his arrest record and plea of nolo contendere to the dismissed charges expunged under FS § 943.0585. If the court finds that the defendant has not successfully completed the program, it can order continued treatment (including placement in a jail-based program) or order that charging and prosecution be resumed.</p>
<p><b>F.S. § 397.334</b></p>	<p><b>Post-adjudicatory drug courts.</b>          Florida also has a number of drug courts that defendants can be placed in only <i>after</i> they plead guilty to a drug offense (hence, they are post-adjudicatory, not pre-trial). These drug courts generally serve nonviolent, drug-addicted offenders who have prior convictions and are not eligible for pre-trial drug court diversion. Offenders who successfully complete the program may have their probation reduced or terminated or other sanctions reduced.</p> <p>Eligibility for post-adjudicatory drug courts is not set out in F.S. § 948.08 and thus varies widely, as these drug courts operate at the county and circuit level. As of September 2008, post-adjudicatory drug courts operated in 26 counties and 11 judicial circuits. Eligibility criteria for each drug court are described in this publication (<a href="http://www.flcourts.org/gen_public/family/drug_court/bin/transferguide.pdf">http://www.flcourts.org/gen_public/family/drug_court/bin/transferguide.pdf</a>) from the Florida State Courts website.</p>
<p><b>F.S. § 948.20</b></p>	<p><b>Drug offender probation.</b> Available to defendants who</p> <ul style="list-style-type: none"> <li>• Are charged with a violation of F.S. §§ 893.13(2)(a) or 893.13(6)(a) <u>or</u> a third degree nonviolent felony under F.S. chapter 810 that occurred <u>after</u> July 1, 2009, <i>and</i></li> <li>• Are, after a hearing, determined by the court to be chronic substance abusers, <i>and</i></li> <li>• Have a total sentence of 52 or fewer points, as calculated on the defendant’s Criminal Punishment Code scoresheet, <i>and</i></li> <li>• Are not charged with a forcible felony as defined in F.S. § 776.08.</li> </ul> <p>For defendants who meet these criteria, the court can adjudge them guilty, stay their charges without the adjudication of guilt, or stay or withhold the imposition of sentence and place the defendant on drug offender probation or into a post-adjudicatory treatment-based drug court program (but only if the defendant</p>



	qualifies for that program). Drug offender probation is a combination of intensive community supervision and a specific treatment plan and can be revoked if the defendant fails to comply with its conditions.
<b>F.S. § 921.0026(m)</b>	<p>A court may sentence a defendant below the lowest permissible sentence allowed by the Criminal Punishment Code, and that sentence can include diversion to a post-adjudicatory drug court, if <b>all</b> of the following are true:</p> <ul style="list-style-type: none"><li>• The offense is a nonviolent felony, as defined in F.S. § 948.08(6),</li><li>• The defendant's Criminal Punishment Code scoresheet total sentence points under F.S. § 921.0024 are 52 points or less,</li><li>• The court decides the defendant is amenable to the services of a postadjudicatory treatment-based drug court program, AND</li><li>• The defendant qualifies to participate in such a program.</li></ul>