

By Senator Burt

16-1133A-98

1 A bill to be entitled
 2 An act relating to criminal offenders;
 3 providing a short title; amending s. 921.0026,
 4 F.S.; providing that testimony in support of an
 5 offender's rehabilitation may not be a
 6 mitigating circumstance considered by the court
 7 in imposing a sentence; amending s. 944.026,
 8 F.S.; prohibiting the court from committing
 9 certain offenders to a probation and
 10 restitution center as an alternative to a
 11 secure state correctional institution;
 12 providing an effective date.

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

16 Section 1. This act may be cited as the "Sean French
 17 Act."

18 Section 2. Subsection (4) is added to section
 19 921.0026, Florida Statutes, as created by section 8 of chapter
 20 97-194, Laws of Florida, to read:

21 921.0026 Mitigating circumstances.--

22 (4) Testimony by a defendant's relative, friend,
 23 employer, or any other person which supports the defendant's
 24 rehabilitation is not a mitigating circumstance under which
 25 the court may depart from the permissible sentencing range,
 26 and a departure based on such testimony is prohibited.
 27 However, this subsection does not preclude evidence or
 28 testimony from a person who is professionally qualified to
 29 assess that the defendant requires specialized treatment, as
 30 described in paragraph (2)(d), and does not preclude a

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1 departure from the permissible sentencing range based upon
2 such evidence or testimony.

3 Section 3. Paragraph (c) of subsection (1) of section
4 944.026, Florida Statutes, is amended to read:

5 944.026 Community-based facilities and programs.--

6 (1) In addition to those facilities and services
7 described elsewhere in this chapter, the department shall
8 develop, provide, or contract for a statewide system of
9 community-based facilities, services, and programs dealing
10 with the rehabilitation of offenders, which shall include, but
11 not be limited to:

12 (c) A system of probation and restitution centers
13 throughout the state whereby probationers, drug offender
14 probationers, and community controllees who have violated
15 their terms or conditions, and whose presumptive sentence
16 exceeds 22 months, may be required to reside while working,
17 receiving treatment, or attending school, or for persons on
18 probation, drug offender probation, or community control who
19 may be required to attend outpatient substance abuse
20 counseling. The purpose of these facilities and services is
21 to provide the court with an alternative to committing
22 offenders to more secure state correctional institutions and
23 to assist in the supervision of probationers, drug offender
24 probationers, and community controllees. However, the court
25 may not refer an offender to a probation and restitution
26 center if the offender has committed any of the following
27 offenses or if the offender has any of the following
28 characteristics:

29 1. The offender has been convicted for committing,
30 attempting to commit, or conspiring to commit a sexual battery
31 under s. 794.011, a felony violation of s. 847.0135, any

1 offense listed or described in s. 775.21(4)(c) or s.
2 943.0435(1)(a), or any offense that involved serious personal
3 injury to another person. As used in this subparagraph, the
4 term "convicted" means a determination of guilt as a result of
5 a trial or the entry of a plea of guilty or nolo contendere,
6 regardless of whether adjudication is withheld.

7 2. The offender has a severe addiction to alcohol or
8 drugs and requires detoxification services or crisis
9 stabilization services, as determined by licensed medical
10 personnel.

11 3. The offender is physically unable to work.

12 4. The offender is charged with a capital or life
13 felony under s. 775.081.

14 Section 4. This act shall take effect October 1, 1998.

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17 SENATE SUMMARY

18 Provides that the court may not depart from the
19 permissible sentencing range based on testimony in
20 support of a defendant's rehabilitation. Provides that an
21 offender may not be committed to a probation and
22 restitution center if the offender has been convicted of
23 certain sex offenses or certain violent offenses, is
24 addicted to alcohol or drugs, or is unable to work.
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