

By Senators Brown-Waite and Laurent

10-43-99

1 A bill to be entitled
2 An act relating to pretrial intervention
3 programs; amending s. 948.08, F.S.; authorizing
4 the court to deny the admission of a defendant
5 to a pretrial intervention program if the
6 defendant has rejected any prior offer of
7 admission to such program; providing an
8 effective date.

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

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12 Section 1. Subsection (2) and paragraph (a) of
13 subsection (6) of section 948.08, Florida Statutes, are
14 amended to read:

15 948.08 Pretrial intervention program.--

16 (2) Any first offender, or any person previously
17 convicted of not more than one nonviolent misdemeanor, who is
18 charged with any misdemeanor or felony of the third degree is
19 eligible for release to the pretrial intervention program on
20 the approval of the administrator of the program and the
21 consent of the victim, the state attorney, and the judge who
22 presided at the initial appearance hearing of the offender.
23 However, the court may deny a defendant's release to a
24 pretrial intervention program if the defendant was previously
25 offered admission to such a program for the current offense or
26 any prior offense and the defendant rejected that offer. In
27 addition,the defendant may not be released to the pretrial
28 intervention program unless, after consultation with his or
29 her attorney, he or she has voluntarily agreed to such program
30 and has knowingly and intelligently waived his or her right to
31 a speedy trial for the period of his or her diversion. The

1 defendant or the defendant's immediate family may not
2 personally contact the victim or the victim's immediate family
3 to acquire the victim's consent under this section.

4 (6)(a) Notwithstanding any provision of this section,
5 a person who is charged with a felony of the second or third
6 degree for purchase or possession of a controlled substance
7 under chapter 893, and who has not previously been convicted
8 of a felony nor been admitted to a pretrial program referred
9 to in this section, is eligible for admission into a pretrial
10 substance abuse education and treatment intervention program
11 approved by the chief judge of the circuit, for a period of
12 not less than 1 year in duration, upon motion of either party
13 or the court's own motion. However, the court may deny a
14 defendant's admission to a pretrial intervention program if
15 the defendant was previously offered admission to such a
16 program for the current offense or any prior offense and the
17 defendant rejected that offer. If the state attorney believes
18 that the facts and circumstances of the case suggest the
19 defendant's involvement in the dealing and selling of
20 controlled substances, the court shall hold a preadmission
21 hearing. If the state attorney establishes, by a preponderance
22 of the evidence at such hearing, that the defendant was
23 involved in the dealing or selling of controlled substances,
24 the court shall deny the defendant's admission into a pretrial
25 intervention program.

26 Section 2. This act shall take effect July 1, 1999.

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29 SENATE SUMMARY

30 Provides that if a defendant rejects an offer of
31 admission to a pretrial intervention program, the court
may deny any subsequent request to admit the defendant to
a pretrial intervention program.