

HB 1251

2009

1 A bill to be entitled  
2 An act relating to pretrial substance abuse programs;  
3 amending s. 948.08, F.S.; eliminating the exclusion of  
4 persons with prior felony convictions from certain  
5 pretrial substance abuse programs; providing an effective  
6 date.

7  
8 Be It Enacted by the Legislature of the State of Florida:  
9

10 Section 1. Paragraph (a) of subsection (6) of section  
11 948.08, Florida Statutes, is amended to read:

12 948.08 Pretrial intervention program.--

13 (6) (a) Notwithstanding any provision of this section, a  
14 person who is charged with a felony of the second or third  
15 degree for purchase or possession of a controlled substance  
16 under chapter 893, prostitution, tampering with evidence,  
17 solicitation for purchase of a controlled substance, or  
18 obtaining a prescription by fraud; who has not been charged with  
19 a crime involving violence, including, but not limited to,  
20 murder, sexual battery, robbery, carjacking, home-invasion  
21 robbery, or any other crime involving violence; and who has not  
22 previously ~~been convicted of a felony nor~~ been admitted to a  
23 felony pretrial program referred to in this section is eligible  
24 for voluntary admission into a pretrial substance abuse  
25 education and treatment intervention program, including a  
26 treatment-based drug court program established pursuant to s.  
27 397.334, approved by the chief judge of the circuit, for a

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28 | period of not less than 1 year in duration, upon motion of  
29 | either party or the court's own motion, except:

30 |       1. If a defendant was previously offered admission to a  
31 | pretrial substance abuse education and treatment intervention  
32 | program at any time prior to trial and the defendant rejected  
33 | that offer on the record, then the court or the state attorney  
34 | may deny the defendant's admission to such a program.

35 |       2. If the state attorney believes that the facts and  
36 | circumstances of the case suggest the defendant's involvement in  
37 | the dealing and selling of controlled substances, the court  
38 | shall hold a preadmission hearing. If the state attorney  
39 | establishes, by a preponderance of the evidence at such hearing,  
40 | that the defendant was involved in the dealing or selling of  
41 | controlled substances, the court shall deny the defendant's  
42 | admission into a pretrial intervention program.

43 |       Section 2. This act shall take effect July 1, 2009.