

ENROLLED

CS/HB 1149

2016 Legislature

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2 An act relating to alternative sanctioning; amending
3 s. 948.06, F.S.; authorizing the chief judge of each
4 judicial circuit, in consultation with specified
5 entities, to establish an alternative sanctioning
6 program; defining the term "technical violation";
7 requiring the chief judge to issue an administrative
8 order when creating an alternative sanctioning
9 program; specifying requirements for the order;
10 authorizing an offender who allegedly committed a
11 technical violation of supervision to waive
12 participation in or elect to participate in the
13 program, admit to the violation, agree to comply with
14 the recommended sanction, and agree to waive certain
15 rights; requiring the probation officer to submit the
16 recommended sanction and certain documentation to the
17 court if the offender admits to committing the
18 violation; authorizing the court to impose the
19 recommended sanction or direct the Department of
20 Corrections to submit a violation report, affidavit,
21 and warrant to the court; specifying that an
22 offender's participation in an alternative sanctioning
23 program is voluntary; authorizing a probation officer
24 to submit a violation report, affidavit, and warrant
25 to the court in certain circumstances; providing an
26 effective date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

Section 1. Paragraph (h) of subsection (1) of section 948.06, Florida Statutes, is redesignated as paragraph (i), and a new paragraph (h) is added to that subsection, to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(1)

(h)1. The chief judge of each judicial circuit, in consultation with the state attorney, the public defender, and the department, may establish an alternative sanctioning program in which the department, after receiving court approval, may enforce specified sanctions for certain technical violations of supervision. For purposes of this paragraph, the term "technical violation" means any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.

2. To establish an alternative sanctioning program, the chief judge must issue an administrative order specifying:

a. Eligibility criteria.

b. The technical violations that are eligible for the program.

c. The sanctions that may be recommended by a probation officer for each technical violation.

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53 d. The process for reporting technical violations through
 54 the alternative sanctioning program, including approved forms.

55 3. If an offender is alleged to have committed a technical
 56 violation of supervision that is eligible for the program, the
 57 offender may:

58 a. Waive participation in the alternative sanctioning
 59 program, in which case the probation officer may submit a
 60 violation report, affidavit, and warrant to the court in
 61 accordance with this section; or

62 b. Elect to participate in the alternative sanctioning
 63 program after receiving written notice of an alleged technical
 64 violation and a disclosure of the evidence against the offender,
 65 admit to the technical violation, agree to comply with the
 66 probation officer's recommended sanction if subsequently ordered
 67 by the court, and agree to waive the right to:

68 (I) Be represented by legal counsel.

69 (II) Require the state to prove his or her guilt before a
 70 neutral and detached hearing body.

71 (III) Subpoena witnesses and present to a judge evidence
 72 in his or her defense.

73 (IV) Confront and cross-examine adverse witnesses.

74 (V) Receive a written statement from a factfinder as to
 75 the evidence relied on and the reasons for the sanction imposed.

76 4. If the offender admits to committing the technical
 77 violation and agrees with the probation officer's recommended
 78 sanction, the probation officer must, before imposing the

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79 sanction, submit the recommended sanction to the court as well
80 as documentation reflecting the offender's admission to the
81 technical violation and agreement with the recommended sanction.

82 5. The court may impose the recommended sanction or may
83 direct the department to submit a violation report, affidavit,
84 and warrant to the court in accordance with this section.

85 6. An offender's participation in an alternative
86 sanctioning program is voluntary. The offender may elect to
87 waive or discontinue participation in an alternative sanctioning
88 program at any time before the issuance of a court order
89 imposing the recommended sanction.

90 7. If an offender waives or discontinues participation in
91 an alternative sanctioning program, the probation officer may
92 submit a violation report, affidavit, and warrant to the court
93 in accordance with this section. The offender's prior admission
94 to the technical violation may not be used as evidence in
95 subsequent proceedings.

96 Section 2. This act shall take effect July 1, 2016.