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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2019	.	
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Appropriations Subcommittee on Criminal and Civil Justice
(Bracy) recommended the following:

Senate Amendment to Amendment (271420) (with title amendment)

Delete lines 3675 - 3924
and insert:

Section 67. Paragraphs (g) and (h) of subsection (1) of
section 948.06, Florida Statutes, are amended to read:

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



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11 (1)

12 (g) The chief judge of each judicial circuit shall ~~may~~
13 direct the department to use a notification letter of a
14 technical violation in appropriate cases in lieu of a violation
15 report, affidavit, and warrant or a notice to appear when the
16 alleged violation is not a new felony or misdemeanor offense.
17 Such direction must be in writing and must specify the types of
18 specific technical violations which are to be reported by a
19 notification letter of a technical violation, any exceptions to
20 those violations, and the required process for submission. At
21 the direction of the chief judge, the department shall send the
22 notification letter of a technical violation to the court. For
23 purposes of this section, the term "technical violation" means
24 an alleged violation of supervision which is not a new felony
25 offense, a new misdemeanor offense, or a new criminal traffic
26 offense.

27 (h) ~~1.~~ The chief judge of each judicial circuit shall, in
28 consultation with the state attorney and, ~~the public defender,~~
29 ~~and the department,~~ ~~may~~ establish an alternative sanctioning
30 program to ensure that in which the department, after receiving
31 court approval, may enforce specified sanctions for certain
32 technical violations of probation or community control do not
33 result in returning an individual to jail or prison supervision.
34 ~~For purposes of this paragraph, the term "technical violation"~~
35 ~~means any alleged violation of supervision that is not a new~~
36 ~~felony offense, misdemeanor offense, or criminal traffic~~
37 ~~offense.~~

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



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- 40 ~~a. Eligibility criteria.~~
- 41 ~~b. The technical violations that are eligible for the~~
- 42 ~~program.~~
- 43 ~~c. The sanctions that may be recommended by a probation~~
- 44 ~~officer for each technical violation.~~
- 45 ~~d. The process for reporting technical violations through~~
- 46 ~~the alternative sanctioning program, including approved forms.~~
- 47 ~~3. If an offender is alleged to have committed a technical~~
- 48 ~~violation of supervision that is eligible for the program, the~~
- 49 ~~offender may:~~
- 50 ~~a. Waive participation in the alternative sanctioning~~
- 51 ~~program, in which case the probation officer may submit a~~
- 52 ~~violation report, affidavit, and warrant to the court in~~
- 53 ~~accordance with this section; or~~
- 54 ~~b. Elect to participate in the alternative sanctioning~~
- 55 ~~program after receiving written notice of an alleged technical~~
- 56 ~~violation and a disclosure of the evidence against the offender,~~
- 57 ~~admit to the technical violation, agree to comply with the~~
- 58 ~~probation officer's recommended sanction if subsequently ordered~~
- 59 ~~by the court, and agree to waive the right to:~~
- 60 ~~(I) Be represented by legal counsel.~~
- 61 ~~(II) Require the state to prove his or her guilt before a~~
- 62 ~~neutral and detached hearing body.~~
- 63 ~~(III) Subpoena witnesses and present to a judge evidence in~~
- 64 ~~his or her defense.~~
- 65 ~~(IV) Confront and cross-examine adverse witnesses.~~
- 66 ~~(V) Receive a written statement from a factfinder as to the~~
- 67 ~~evidence relied on and the reasons for the sanction imposed.~~
- 68 ~~4. If the offender admits to committing the technical~~



69 ~~violation and agrees with the probation officer's recommended~~
70 ~~sanction, the probation officer must, before imposing the~~
71 ~~sanction, submit the recommended sanction to the court as well~~
72 ~~as documentation reflecting the offender's admission to the~~
73 ~~technical violation and agreement with the recommended sanction.~~

74 ~~5. The court may impose the recommended sanction or may~~
75 ~~direct the department to submit a violation report, affidavit,~~
76 ~~and warrant to the court in accordance with this section.~~

77 ~~6. An offender's participation in an alternative~~
78 ~~sanctioning program is voluntary. The offender may elect to~~
79 ~~waive or discontinue participation in an alternative sanctioning~~
80 ~~program at any time before the issuance of a court order~~
81 ~~imposing the recommended sanction.~~

82 ~~7. If an offender waives or discontinues participation in~~
83 ~~an alternative sanctioning program, the probation officer may~~
84 ~~submit a violation report, affidavit, and warrant to the court~~
85 ~~in accordance with this section. The offender's prior admission~~
86 ~~to the technical violation may not be used as evidence in~~
87 ~~subsequent proceedings.~~

88
89 ===== T I T L E A M E N D M E N T =====

90 And the title is amended as follows:

91 Delete lines 7948 - 7989

92 and insert:

93 requiring, rather than authorizing, the chief judge of
94 each judicial circuit to direct the department to use
95 a notification letter of a technical violation in
96 certain situations; requiring, rather than
97 authorizing, the chief judge to establish an



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98 alternative sanctioning program, in consultation with
99 the state attorney and public defender; deleting
100 provisions relating to requirements for an alternative
101 sanctioning program; amending s. 948.08, F.S.;
102 expanding