

## CHAPTER 2016-100

### Committee Substitute for House Bill No. 1149

An act relating to alternative sanctioning; amending s. 948.06, F.S.; authorizing the chief judge of each judicial circuit, in consultation with specified entities, to establish an alternative sanctioning program; defining the term “technical violation”; requiring the chief judge to issue an administrative order when creating an alternative sanctioning program; specifying requirements for the order; authorizing an offender who allegedly committed a technical violation of supervision to waive participation in or elect to participate in the program, admit to the violation, agree to comply with the recommended sanction, and agree to waive certain rights; requiring the probation officer to submit the recommended sanction and certain documentation to the court if the offender admits to committing the violation; authorizing the court to impose the recommended sanction or direct the Department of Corrections to submit a violation report, affidavit, and warrant to the court; specifying that an offender’s participation in an alternative sanctioning program is voluntary; authorizing a probation officer to submit a violation report, affidavit, and warrant to the court in certain circumstances; providing an effective date.

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.

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

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

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

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

(I) Be represented by legal counsel.

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

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

(IV) Confront and cross-examine adverse witnesses.

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

4. If the offender admits to committing the technical violation and agrees with the probation officer's recommended sanction, the probation officer must, before imposing the sanction, submit the recommended sanction to the court as well as documentation reflecting the offender's admission to the technical violation and agreement with the recommended sanction.

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

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

7. If an offender waives or discontinues participation in an alternative sanctioning program, the probation officer may submit a violation report, affidavit, and warrant to the court in accordance with this section. The

offender's prior admission to the technical violation may not be used as evidence in subsequent proceedings.

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

Approved by the Governor March 24, 2016.

Filed in Office Secretary of State March 24, 2016.