**2016 Florida Statutes Title XLVII, Chapter 948**

**Criminal Procedure and Corrections – Probation and Community Control**

**948.08 Pretrial intervention program. –**

(1) The department shall supervise pretrial intervention programs for persons charged with a crime, before or after any information has been filed or an indictment has been returned in the circuit court. Such programs shall provide appropriate counseling, education, supervision, and medical and psychological treatment as available and when appropriate for the persons released to such programs.

(2) Any first offender, or any person previously convicted of not more than one nonviolent misdemeanor, who is charged with any misdemeanor or felony of the third degree is eligible for release to the pretrial intervention program on the approval of the administrator of the program and the consent of the victim, the state attorney, and the judge who presided at the initial appearance hearing of the offender. However, the defendant may not be released to the pretrial intervention program unless, after consultation with his or her attorney, he or she has voluntarily agree to such program and has knowingly and intelligently waived his or her right to a speedy trial for the period of his or her diversion. The defendant or the defendant’s immediate family may not personally contact the victim or the victim’s immediate family to acquire the victim’s consent under this section.

(3) The criminal charges against an offender admitted to the program shall be continued without final disposition for a period of 90 days after the date the offender was released to the program, if the offender’s participation in the program is satisfactory, and for an additional 90 days upon the request of the program administrator and consent of the state attorney, if the offender’s participation in the program is satisfactory.

(4) Resumption of pending criminal proceedings shall be undertaken at any time if the program administrator or state attorney finds that the offender is not fulfilling his or her obligations under this plan or if the public interest so requires. The court may not appoint the public defender to represent an indigent offender released to the pretrial intervention program unless the offender’s release is revoked and the offender is subject to imprisonment if convicted.

(5) At the end of the intervention period, the administrator shall recommend:

(a) That the case revert to normal channels for prosecution in instances in which the offender’s participation in the program has been unsatisfactory;

(b) That the offender is in need of further supervision; or

(c) That dismissal of charges without prejudice shall be entered in instances in which prosecution is not deemed necessary.

The state attorney shall make the final determination as to whether the prosecution shall continue.

(6)(a) For purposes of this subsection, the term “nonviolent felony” means a third degree felony violation in chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08. Notwithstanding any provision of this section, a person who is charged with a nonviolent felony and is identified as having a substance abuse problem or is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud; who has not been charged with a crime involving violence, including, but not limited to, murder sexual battery, robbery, carjacking, home-invasion robbery, or any other rime involving violence; and who has not previously been convicted of a felony is eligible for voluntary admission into a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, approved by the chief judge of the circuit, for a period of not less than 1 year in duration, upon motion of either party or the court’s own motion, except:

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

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

(b) While enrolled in a pretrial intervention program authorized by this subsection, the participant is subject to a coordinated strategy developed by a drug court team under s. 397.334 (4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585.

(c) At the end of the pretrial intervention period, the court shall consider the recommendation of the administrator pursuant to subsection (5) and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334(4), if the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include substance abuse treatment programs offered by licensed service providers as defined in s. 397.311 or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(d) Any entity, whether public or private, providing a pretrial substance abuse education and treatment intervention program under this subsection must contract with the county or appropriate government entity, and the terms of the contract must include, but need not be limited to, the requirements established for private entities under s. 948.15(3).

(7)(a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a veteran, as defined in s. 1.01, including a veteran who is discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans’ treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court’s own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans’ treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court may deny the defendant’s admission to such a program.

2. If a defendant previously entered a court-ordered veterans’ treatment program, the court may deny the defendant’s admission into the pretrial veterans’ treatment program.

(b) While enrolled in a pretrial intervention program authorized by this subsection, the participant shall be subject to a coordinated strategy developed by a veterans’ treatment intervention team. The coordinated strategy should be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of servicemembers and veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial veterans’ treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the pretrial veterans’ treatment intervention program, if otherwise eligible, may have his or her arrest record of the dismissed charges expunged under s. 943.0585.

(c) At the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(8)(a) Notwithstanding any provision of this section, a defendant is eligible for voluntary admission into a pretrial mental health court program established pursuant to s. 394.47892 and approved by the chief judge of the circuit for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court’s own motion if:

1. The defendant is identified as having a mental illness;

2. The defendant has not been convicted of a felony; and

3. The defendant is charged with:

a. A nonviolent felony that includes a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08.

b. Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the defendant’s participation;

c. Battery on a law enforcement officer under s. 784.07, if the law enforcement officer and state attorney consent to the defendant’s participation; or

d. Aggravated assault, if the victim and state attorney consent to the defendant’s participation.

(b) At the end of the pretrial intervention period, the court shall consider the recommendation of the program administrator and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include a mental health program offered by a licensed service provider, as defined in s. 394.455, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(9) The department may contract for the services and facilities necessary to operate pretrial intervention programs.

**History.** – s. 6, ch. 74-112; . 1, ch. 75-301; s. 24, ch. 77-120; s. 1, ch. 77-174; s. 36, ch. 79-3; s. 1, ch. 80-329; s. 9, ch. 91-225; s. 6, ch. 91-280; s. 1, ch. 93-229; ss. 1688, 1689, ch. 97102; s. 13, ch. 97-107; s. 123, ch. 99-3; s. 1, ch. 99-152; s. 3, ch. 2001-48; s. 16, ch. 2001-110; s. 6, ch. 2002-297; s. 8, ch. 2006-97; s. 5, ch. 2009-64; s. 18, ch. 2012-159; s. 114, ch. 2013-15; s. 17, ch. 2016-127.

**Note.** – Former s. 944.025.