

The State of South Carolina



Office of the Attorney General

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August 21, 1989

John T. Hayes, Director  
Adult and Juvenile Pre-Trial  
Diversion Programs  
Seventh Judicial Circuit  
P. O. Box 5666  
Spartanburg, South Carolina 29304

Dear Mr. Hayes:

In a letter to this Office you questioned whether there have been any amendments during this past legislative session to the provisions of Sections 17-22-10 et seq. of the Code which is this State's Pretrial Intervention Act. Based upon my review and a conversation with the legislative information office, I am unaware of any amendments to such provisions during this past session of the General Assembly.

As to your question regarding allowing defendants charged with failure to stop for a blue light or burglary to be admitted to a pretrial intervention program, Section 17-22-50 of the Code states:

(a) person may not be considered for intervention if he has previously been accepted into an intervention program nor may intervention be considered for those individuals charged with burglary, arson, kidnapping, blackmail, driving under the influence of intoxicating liquor or drugs; any traffic-related offense which is punishable only by fine or loss of points, or any fish, game, wildlife, or commercial fishery-related offense which is punishable by a fine or loss of points, or any crime of violence including, but not limited to murder, voluntary manslaughter, assault and battery with intent to kill, criminal sexual assault, or armed robbery. This section does not apply if the solicitor determines the elements of the crime do not fit the charge.

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The offense of burglary is specifically cited and would include all degrees of the offense as set forth in Section 16-11-310 et seq. of the Code. As to traffic offenses, admission is not considered for defendants charged with driving under the influence or any traffic offense punishable only by fine or loss of points. Pursuant to Section 56-5-750, the offense of failing to stop a motor vehicle when signalled by a law enforcement vehicle is subject to a fine of not less than five hundred dollars or imprisonment for not less than ninety days. Therefore, inasmuch as such offense is not a traffic-related offense punishable only by fine or loss of points, an individual charged with such offense may be considered for a pretrial intervention program. Of course, this Office expresses no opinion as to whether pretrial intervention is appropriate in the instance you reference.

If there are any further questions you may wish to contact Ms. Lee Munn of this Office who also works with the pretrial intervention program.

With best wishes, I am

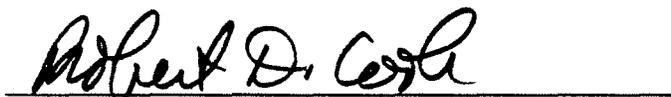
Very truly yours,



Charles H. Richardson  
Assistant Attorney General

CHR/rhm

REVIEWED AND APPROVED BY:



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