

By Representative Roberts-Burke

1                                   A bill to be entitled  
2           An act relating to community punishment;  
3           providing legislative intent to replace regular  
4           community supervision programs with a continuum  
5           of community punishment sanctions that are  
6           appropriate to the individual offender, the  
7           needs of the victim, and the needs of the  
8           community; providing legislative intent to  
9           remove all statutory and case law limitations,  
10          other than questions of constitutionality, that  
11          have been barriers to an effective system of  
12          community punishment and victim services;  
13          providing legislative intent to authorize  
14          enhanced community punishment sentences with  
15          greatly expanded conditions that can be  
16          administratively imposed; requiring the  
17          Department of Corrections to provide, by  
18          January 1, 1998, a plan to reorganize its  
19          Office of Community Corrections into an  
20          organizational unit focusing on community  
21          punishment and victim services under an  
22          assistant secretary, in accordance with the  
23          intent of the act; providing an effective date.

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25           WHEREAS, the Criminal Justice Standards Committee of  
26          the American Bar Association, comprised of prosecutors,  
27          defense lawyers, professors, and judges, in "Standards for  
28          Criminal Justice Sentencing," 1994, recommends use of "a broad  
29          array of criminal sanctions," and

30           WHEREAS, the Florida Corrections Commission, in its  
31          November 1995 Annual Report, observes that there is now a

1 window of opportunity in this state to review existing  
2 policies, reevaluate alternative policies, and address issues  
3 that have gone unattended because of the need to address the  
4 demand for prison beds, and that this opportunity includes the  
5 development and expanded use of community punishment to divert  
6 appropriate offenders "from the more costly and less effective  
7 prison commitment," and

8           WHEREAS, Department of Corrections records show that a  
9 substantial majority of offenders who are not sentenced to  
10 prison are placed on regular probation and that as of June 30,  
11 1996, more than 98,400 offenders, mostly property and drug  
12 offenders, were on regular probation, compared to the  
13 approximately 64,000 offenders who were incarcerated in  
14 Department of Corrections secure facilities and the  
15 approximately 14,465 offenders who were on community control,  
16 and

17           WHEREAS, these figures reflect a system that most  
18 heavily relies on just two sentencing options, probation and  
19 prison, while Department of Corrections statistics demonstrate  
20 seriously increased caseloads of probation officers, resulting  
21 in an average caseload per probation officer for standard  
22 probation of 134 to 1, and

23           WHEREAS, according to the Task Force for the Review of  
24 Criminal Justice and Corrections Systems, the caseloads of  
25 probation officers have grown to levels that preclude  
26 effective supervision, redirection, and reintegration of  
27 offenders into the community, and

28           WHEREAS, research has shown that a continuum of  
29 immediate community sanctions can be a cost-effective method  
30 of increasing the swiftness and certainty of punishment for  
31 designated offenders and can deter them from committing more

1 crimes, and many have proposed this as a means to better  
2 bridge the gap between prison and probation, and

3 WHEREAS, a continuum of immediate community sanctions  
4 enables a judge to design an appropriate punishment for each  
5 offender, with the flexibility to impose new and increased  
6 sanctions when necessary, and its deterrence value for  
7 potential peer group offenders is heightened by its visibility  
8 within the community, NOW, THEREFORE,

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. COMMUNITY PUNISHMENT AND VICTIM  
13 SERVICES.--It is the intent of the Legislature to develop  
14 legislation for consideration during the 1998 Regular Session  
15 that would substantially revise the state's laws relating to  
16 community supervision programs administered by the Department  
17 of Corrections by:

18 (1) Significantly expanding the available community  
19 punishment sentence options and placing community punishment  
20 sentences within the total discretion of the sentencing judge  
21 and the community punishment officer, although the jury is  
22 authorized to recommend a community punishment sentence to the  
23 sentencing judge. The sentencing judge shall have sole  
24 discretion over victim restitution issues.

25 (2)(a) Removing all statutory law, case law, and other  
26 limitations, other than questions of constitutionality, that  
27 have acted as barriers to effective systems of community  
28 punishment and victim services. No offender sentenced to a  
29 term of community punishment may be released from community  
30 punishment until any required restitution has been satisfied.

31

1       (b) When sentencing an offender for a felony offense,  
2 if the sentencing judge does not impose a state prison  
3 sentence or imposes a split sentence, community punishment  
4 sentences are authorized as follows:

5           1. For a life felony or a felony of the first degree  
6 punishable by life imprisonment, by a term of community  
7 punishment for up to and including life.

8           2. For a felony of the first degree, by a term of  
9 community punishment not exceeding 60 years.

10          3. For a felony of the second degree, by a term of  
11 community punishment not exceeding 30 years.

12          4. For a felony of the third degree, by a term of  
13 community punishment not exceeding 10 years.

14       (c) When sentencing an offender for a misdemeanor  
15 offense, community punishment sentences are authorized as  
16 follows:

17           1. For a misdemeanor of the first degree, for a term  
18 of community punishment not exceeding 2 years.

19           2. For a misdemeanor of the second degree, for a term  
20 of community punishment not exceeding 1 year.

21          (3) Suspending adjudication for the duration of the  
22 community punishment sentence, but authorizing the sentencing  
23 judge to administratively impose adjudication at any time  
24 during the period of the community punishment sentence, upon a  
25 preponderance of evidence that the offender has committed a  
26 substantial violation of the community punishment sentence or  
27 a new criminal offense.

28          (4) Giving the community punishment officer the  
29 authority and total discretion to administratively increase or  
30 decrease all community punishment terms and conditions and the  
31 length of the community punishment sentence within the

1 authorized timeframe, with notification to the offender and  
2 the written approval of the sentencing judge.  
3 (5) Requiring that community punishment conditions be  
4 imposed in the following priority context:  
5 (a) Satisfaction to the victim.  
6 (b) Complete cessation of the offender's criminal  
7 behavior.  
8 (c) Satisfaction to the community.  
9 (6) Authorizing the sentencing court, together with  
10 the community punishment officer, to fashion any community  
11 punishment sentence rationally related to the offense  
12 committed and the identified problems of the individual  
13 offender, within the community punishment priority context. In  
14 addition to traditional standard conditions of community  
15 supervision under current law, conditions of community  
16 punishment may include, but are not limited to:  
17 (a)1. Before the offender leaves the courtroom, a  
18 letter of apology prepared for each victim, with the  
19 offender's photo attached.  
20 2. A public apology, which may include the offender's  
21 making a written public apology published in a newspaper  
22 widely distributed in the community.  
23 (b)1. Child support payments to children of deceased  
24 or disabled victims.  
25 2. If the offender has fathered children out of  
26 wedlock and paternity has not been legally established, a  
27 paternity suit brought by the offender against himself.  
28 3. Child support, if the offender is not supporting  
29 his or her children.  
30 4. Medroxyprogesterone acetate (MPA) treatment as a  
31 condition of community punishment if not medically or

1 otherwise contraindicated for dead-beat parent offenders who  
2 become the parent of another child.  
3 (c)1. Erection and maintenance of a marker or monument  
4 for victims.  
5 2. Placement of a marker which describes the terms and  
6 conditions of a relevant court order on the offender's  
7 property.  
8 (d) Any appropriate number of community service hours,  
9 to be performed at a monthly or weekly rate.  
10 (e) Attendance at community punishment court.  
11 (f)1. Surveillance community punishment, with  
12 electronic monitoring or mandatory curfew and frequent  
13 substance abuse screening.  
14 2. Surveillance by mobile intervention supervision  
15 teams, or other innovative supervision methods.  
16 (g) Specialized coerced-abstinence community  
17 punishment with a secure residential substance abuse treatment  
18 component.  
19 (h) Intensive therapeutic judicial supervision.  
20 (i) Placement of the offender in a local boot camp,  
21 local work camp, local substance abuse or mental health  
22 treatment facility, or department-operated community  
23 punishment restitution center or work facility.  
24 (j) Requirement that the offender attend and complete  
25 any appropriate program, including, but not limited to,  
26 batterers' intervention, Alcoholics Anonymous, Cocaine  
27 Anonymous, Narcotics Anonymous, literacy or other education,  
28 parenting, life skills, and employment training.  
29 Section 2. OFFICE OF COMMUNITY CORRECTIONS  
30 REORGANIZATION.--  
31

1           (1) No later than January 1, 1998, the Department of  
2 Corrections must provide a plan to reorganize its current  
3 Office of Community Corrections into an organizational unit  
4 that focuses on community punishment and victim services,  
5 under the direction of an assistant secretary. The plan shall  
6 include a mission statement for the new unit. The mission  
7 statement must focus on public safety, with the objective of  
8 establishing a community punishment program that is viewed  
9 within the community as trustworthy and credible, economical,  
10 safe, and restorative of a sense of community justice. The new  
11 unit's structure must be designed to optimize its mission in  
12 the most cost-effective manner, with the following premises:

13           (a) This state needs swift and sure community  
14 punishment options that work.

15           (b) Some offenders can become productive citizens  
16 instead of wards of the state.

17           (c) The effective administration of community  
18 punishment and victim services is cost-effective and restores  
19 a sense of justice to the community.

20           (2) As part of its plan, the department shall:

21           (a) Provide recommendations regarding a community  
22 punishment continuum, including a continuum of sanctions for  
23 community punishment violations.

24           (b) Include recommendations regarding specialized  
25 sanctions, including facilities, for offenders who are placed  
26 into specialized coerced-abstinence community punishment.

27           (c) Provide recommendations regarding community  
28 punishment supervision fees.

29           (d) Include recommendations for working with local  
30 public safety groups.

31

1        (e) Include a methodology for keeping each community  
2 informed about its community punishment program, including  
3 restitution amounts paid, community hours served, property  
4 returned, and offender successes and failures.

5        (f) Provide documentation of staffing patterns and  
6 requirements and other budget needs.

7        (g) Address the feasibility of transferring all  
8 programs dealing with victims from the Department of Legal  
9 Affairs to the Department of Corrections.

10           Section 3. This act shall take effect upon becoming a  
11 law.

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14                           HOUSE SUMMARY

15           Provides legislative intent to replace regular community  
16 supervision programs with a continuum of community  
17 punishment sanctions that are appropriate to the  
18 individual offender, the needs of the victim, and the  
19 needs of the community. Provides legislative intent to  
20 remove all statutory and case law limitations, other than  
21 questions of constitutionality, that have been barriers  
22 to an effective system of community punishment and victim  
23 services. Provides legislative intent to authorize  
24 enhanced community punishment sentences with greatly  
25 expanded conditions that can be administratively imposed.  
26 Requires the Department of Corrections to provide, by  
27 January 1, 1998, a plan to reorganize its Office of  
28 Community Corrections into an organizational unit  
29 focusing on community punishment and victim services  
30 under an assistant secretary, in accordance with the  
31 intent of the act.