

1                   A bill to be entitled  
2           An act relating to offenders under correctional  
3           supervision; amending s. 947.1405, F.S.,  
4           relating to conditional release; providing that  
5           a conditional releasee must submit to searches  
6           of his or her person, property, or residence as  
7           requested by a correctional probation officer;  
8           reenacting s. 775.084(4)(i), F.S., relating to  
9           habitual felony offenders and habitual violent  
10          felony offenders, to incorporate said amendment  
11          in a reference; amending s. 947.18, F.S.,  
12          relating to conditions of parole; providing  
13          that a parolee must submit to searches of his  
14          or her person, property, or residence as  
15          requested by a correctional probation officer;  
16          amending s. 947.22, F.S.; providing for  
17          issuance of arrest warrant for a parole  
18          violation by a correctional probation officer,  
19          under specified circumstances; authorizing a  
20          correctional probation officer to arrest  
21          without warrant a parolee, control releasee, or  
22          conditional releasee, or to search or request  
23          search by a law enforcement officer of the  
24          parolee or releasee's person, property, or  
25          residence, under specified circumstances if  
26          there are reasonable grounds to believe a  
27          violation has occurred or if there are  
28          reasonable grounds to believe the parolee or  
29          releasee possesses prohibited items; providing  
30          that evidence is admissible at a hearing for  
31          violation of supervision even if no reasonable

1 ground for seizure exists; amending s. 948.03,  
2 F.S., relating to probation and community  
3 control; requiring a probationer or community  
4 controllee on supervision to submit to certain  
5 searches of his or her person, property, or  
6 residence; prohibiting a probationer or  
7 community controllee from having "contact," as  
8 defined, with the victim unless authorized by  
9 the court; reenacting s. 947.23(6), F.S.,  
10 relating to action of Parole Commission upon  
11 arrest of parolee, s. 948.001(5), F.S.,  
12 relating to definition of "probation" with  
13 respect to chapter 948, F.S., and s. 958.03(4),  
14 F.S., relating to definition of "probation"  
15 with respect to specified provisions in chapter  
16 958, F.S., to incorporate said amendment in  
17 references; amending s. 948.06, F.S., relating  
18 to violations of probation or community  
19 control; authorizing law enforcement officers  
20 and probation or community control officers to  
21 search without a warrant the person, property,  
22 or residence of any of specified offenders  
23 under certain circumstances; prohibiting the  
24 exclusion or suppression of evidence from  
25 trials for subsequent offenses by offenders on  
26 probation, parole, conditional release, or  
27 community control under certain circumstances  
28 when there were "reasonable grounds," defined  
29 as the reasonable suspicion standard, to  
30 believe that at the time of the search the  
31 offender violated the law or the terms of

1 supervision; providing that evidence is  
2 admissible at a hearing for violation of  
3 supervision even if no reasonable ground for  
4 seizure exists; prohibiting the exclusion or  
5 suppression of evidence from hearings for  
6 violation of supervision of offenders on  
7 probation, parole, conditional release, or  
8 community control; reenacting s. 948.01(9),  
9 (11)(b), and (13)(b), F.S., relating to  
10 circumstances when a court may place a  
11 defendant on probation or into community  
12 control, and s. 958.14, F.S., relating to  
13 violation of probation or community control  
14 program, to incorporate said amendment in  
15 references; providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsection (2) of section 947.1405, Florida  
20 Statutes, is amended to read:

21 947.1405 Conditional release program.--

22 (1) This section and s. 947.141 may be cited as the  
23 "Conditional Release Program Act."

24 (2) Any inmate who:

25 (a) Is convicted of a crime committed on or after  
26 October 1, 1988, and before January 1, 1994, and any inmate  
27 who is convicted of a crime committed on or after January 1,  
28 1994, which crime is or was contained in category 1, category  
29 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,  
30 Florida Rules of Criminal Procedure (1993), and who has served  
31

1 at least one prior felony commitment at a state or federal  
2 correctional institution;

3 (b) Is sentenced as a habitual or violent habitual  
4 offender or a violent career criminal pursuant to s. 775.084;  
5 or

6 (c) Is found to be a sexual predator under s. 775.21  
7 or former s. 775.23,

8  
9 shall, upon reaching the tentative release date or provisional  
10 release date, whichever is earlier, as established by the  
11 Department of Corrections, be released under supervision  
12 subject to specified terms and conditions, including payment  
13 of the cost of supervision pursuant to s. 948.09. Such  
14 supervision shall be applicable to all sentences within the  
15 overall term of sentences if an inmate's overall term of  
16 sentences includes one or more sentences that are eligible for  
17 conditional release supervision as provided herein. Effective  
18 July 1, 1994, and applicable for offenses committed on or  
19 after that date, the commission may require, as a condition of  
20 conditional release, that the releasee make payment of the  
21 debt due and owing to a county or municipal detention facility  
22 under s. 951.032 for medical care, treatment, hospitalization,  
23 or transportation received by the releasee while in that  
24 detention facility. The commission, in determining whether to  
25 order such repayment and the amount of such repayment, shall  
26 consider the amount of the debt, whether there was any fault  
27 of the institution for the medical expenses incurred, the  
28 financial resources of the releasee, the present and potential  
29 future financial needs and earning ability of the releasee,  
30 and dependents, and other appropriate factors. If an inmate  
31 has received a term of probation or community control

1 supervision to be served after release from incarceration, the  
2 period of probation or community control must be substituted  
3 for the conditional release supervision. A panel of no fewer  
4 than two commissioners shall establish the terms and  
5 conditions of any such release. If the offense was a  
6 controlled substance violation, the conditions shall include a  
7 requirement that the offender submit to random substance abuse  
8 testing intermittently throughout the term of conditional  
9 release supervision, upon the direction of the correctional  
10 probation officer as defined in s. 943.10(3). Regardless of  
11 the offense, the offender must consent to a search of his or  
12 her person, property, or residence as requested by the  
13 correctional probation officer.The commission shall also  
14 determine whether the terms and conditions of such release  
15 have been violated and whether such violation warrants  
16 revocation of the conditional release.

17 Section 2. For the purpose of incorporating the  
18 amendment to s. 947.1405, Florida Statutes, in a reference  
19 thereto, paragraph (i) of subsection (4) of section 775.084,  
20 Florida Statutes, is reenacted to read:

21 775.084 Violent career criminals; habitual felony  
22 offenders and habitual violent felony offenders; definitions;  
23 procedure; enhanced penalties.--

24 (4)

25 (i) The provisions of s. 947.1405 shall apply to  
26 persons sentenced as habitual felony offenders and persons  
27 sentenced as habitual violent felony offenders.

28 Section 3. Section 947.18, Florida Statutes, is  
29 amended to read:

30 947.18 Conditions of parole.--No person shall be  
31 placed on parole merely as a reward for good conduct or

1 efficient performance of duties assigned in prison. No person  
2 shall be placed on parole until and unless the commission  
3 finds that there is reasonable probability that, if the person  
4 is placed on parole, he or she will live and conduct himself  
5 or herself as a respectable and law-abiding person and that  
6 the person's release will be compatible with his or her own  
7 welfare and the welfare of society. No person shall be placed  
8 on parole unless and until the commission is satisfied that he  
9 or she will be suitably employed in self-sustaining employment  
10 or that he or she will not become a public charge. The  
11 commission shall determine the terms upon which such person  
12 shall be granted parole. If the person's conviction was for a  
13 controlled substance violation, one of the conditions must be  
14 that the person submit to random substance abuse testing  
15 intermittently throughout the term of supervision, upon the  
16 direction of the correctional probation officer as defined in  
17 s. 943.10(3). Regardless of the offense, the offender must  
18 consent to a search of his or her person, property, or  
19 residence as requested by the correctional probation officer.  
20 In addition to any other lawful condition of parole, the  
21 commission may make the payment of the debt due and owing to  
22 the state under s. 960.17 or the payment of the attorney's  
23 fees and costs due and owing to a county under s. 938.29 a  
24 condition of parole subject to modification based on change of  
25 circumstances.

26 Section 4. Subsections (1) and (2) of section 947.22,  
27 Florida Statutes, are amended to read:

28 947.22 Authority to arrest and search ~~parole~~ violators  
29 with or without warrant.--

30 (1) If a member of the commission or a duly authorized  
31 representative of the commission has reasonable grounds to

1 believe that a parolee has violated the terms and conditions  
2 of her or his parole in a material respect, such member or  
3 representative may issue a warrant for the arrest of such  
4 parolee. The warrant shall be returnable before a member of  
5 the commission or a duly authorized representative of the  
6 commission. The commission, a commissioner, or a parole  
7 examiner with approval of the parole examiner supervisor, may  
8 release the parolee on bail or her or his own recognizance,  
9 conditioned upon her or his appearance at any hearings noticed  
10 by the commission. If not released on bail or her or his own  
11 recognizance, the parolee shall be committed to jail pending  
12 hearings pursuant to s. 947.23. The commission, at its  
13 election, may have the hearing conducted by one or more  
14 commissioners or by a duly authorized representative of the  
15 commission. Any correctional probation officer ~~parole and~~  
16 ~~probation officer~~, any officer authorized to serve criminal  
17 process, or any peace officer of this state is authorized to  
18 execute the warrant.

19 (2) Any correctional probation officer ~~parole and~~  
20 ~~probation officer~~, when she or he has reasonable ground to  
21 believe that a parolee, control releasee, or conditional  
22 releasee has violated the terms and conditions of her or his  
23 parole, control release, or conditional release in a material  
24 respect, has the right to arrest the releasee or parolee  
25 without warrant and bring her or him forthwith before one or  
26 more commissioners or a duly authorized representative of the  
27 Parole Commission or Control Release Authority; and  
28 proceedings shall thereupon be had as provided herein when a  
29 warrant has been issued by a member of the commission or  
30 authority or a duly authorized representative of the  
31 commission or authority. When any correctional probation

1 officer has reasonable grounds to believe that a parolee,  
2 control releasee, or conditional releasee has violated the  
3 terms and conditions of her or his parole, control release, or  
4 conditional release in a material respect or is in possession  
5 of contraband or other items that the person is prohibited  
6 from possessing, the correctional probation officer may search  
7 the person, property, or residence of the parolee or releasee  
8 or request a law enforcement officer to do the same. However,  
9 if a correctional probation officer conducts a search without  
10 reasonable grounds, the evidence seized may only be admitted  
11 at a hearing for a violation of supervision.

12 Section 5. Subsection (1) of section 948.03, Florida  
13 Statutes, is amended to read:

14 948.03 Terms and conditions of probation or community  
15 control.--

16 (1) The court shall determine the terms and conditions  
17 of probation or community control. Conditions specified in  
18 paragraphs (a) through and including (o)~~(m)~~ do not require  
19 oral pronouncement at the time of sentencing and may be  
20 considered standard conditions of probation. Conditions  
21 specified in paragraphs (a) through and including (o)~~(m)~~ and  
22 (2)(a) do not require oral pronouncement at sentencing and may  
23 be considered standard conditions of community control. These  
24 conditions may include among them the following, that the  
25 probationer or offender in community control shall:

26 (a) Report to the probation and parole supervisors as  
27 directed.

28 (b) Permit such supervisors to visit him or her at his  
29 or her home or elsewhere.

30 (c) Work faithfully at suitable employment insofar as  
31 may be possible.



1 (d) Remain within a specified place.

2 (e) Make reparation or restitution to the aggrieved  
3 party for the damage or loss caused by his or her offense in  
4 an amount to be determined by the court. The court shall make  
5 such reparation or restitution a condition of probation,  
6 unless it determines that clear and compelling reasons exist  
7 to the contrary. If the court does not order restitution, or  
8 orders restitution of only a portion of the damages, as  
9 provided in s. 775.089, it shall state on the record in detail  
10 the reasons therefor.

11 (f) Effective July 1, 1994, and applicable for  
12 offenses committed on or after that date, make payment of the  
13 debt due and owing to a county or municipal detention facility  
14 under s. 951.032 for medical care, treatment, hospitalization,  
15 or transportation received by the felony probationer while in  
16 that detention facility. The court, in determining whether to  
17 order such repayment and the amount of such repayment, shall  
18 consider the amount of the debt, whether there was any fault  
19 of the institution for the medical expenses incurred, the  
20 financial resources of the felony probationer, the present and  
21 potential future financial needs and earning ability of the  
22 probationer, and dependents, and other appropriate factors.

23 (g) Support his or her legal dependents to the best of  
24 his or her ability.

25 (h) Make payment of the debt due and owing to the  
26 state under s. 960.17, subject to modification based on change  
27 of circumstances.

28 (i) Pay any application fee assessed under s.  
29 27.52(1)(c) and attorney's fees and costs assessed under s.  
30 938.29, subject to modification based on change of  
31 circumstances.

1 (j) Not associate with persons engaged in criminal  
2 activities.

3 (k)1. Submit to random testing as directed by the  
4 correctional probation officer or the professional staff of  
5 the treatment center where he or she is receiving treatment to  
6 determine the presence or use of alcohol or controlled  
7 substances.

8 2. If the offense was a controlled substance violation  
9 and the period of probation immediately follows a period of  
10 incarceration in the state correction system, the conditions  
11 shall include a requirement that the offender submit to random  
12 substance abuse testing intermittently throughout the term of  
13 supervision, upon the direction of the correctional probation  
14 officer as defined in s. 943.10(3).

15 (l) Be prohibited from possessing, carrying, or owning  
16 any firearm unless authorized by the court and consented to by  
17 the probation officer.

18 (m) Be prohibited from using intoxicants to excess or  
19 possessing any drugs or narcotics unless prescribed by a  
20 physician. The probationer or community controllee shall not  
21 knowingly visit places where intoxicants, drugs, or other  
22 dangerous substances are unlawfully sold, dispensed, or used.

23 (n) For offenses involving victims, not have contact  
24 with the victim unless otherwise authorized by the court. If  
25 the court authorizes the defendant to have contact with the  
26 victim, over the objection of the victim or state attorney,  
27 the court shall state on the record in detail the reasons  
28 therefor. For purposes of this paragraph, "contact" means  
29 willful and knowing intent to be physically in the presence of  
30 the victim in any manner, or oral or written communication to  
31 the victim by any means. Contact is established by the conduct

1 of the defendant, or by anyone acting at the direction of the  
2 defendant. It shall be the duty of the defendant to leave  
3 immediately the presence of the victim under any circumstance  
4 when incidental or unintended contact takes place.

5 (o) Consent to search of his or her person, property,  
6 or residence as requested by the supervising probation or  
7 community control officer. The offender must be given notice  
8 of this paragraph by either the court or by a probation or  
9 community control officer in order for the offender to be  
10 subject to this paragraph.

11 (p)~~(n)~~ Attend an HIV/AIDS awareness program consisting  
12 of a class of not less than 2 hours or more than 4 hours in  
13 length, the cost for which shall be paid by the offender, if  
14 such a program is available in the county of the offender's  
15 residence.

16 (q)~~(o)~~ Pay not more than \$1 per month during the term  
17 of probation or community control to a nonprofit organization  
18 established for the sole purpose of supplementing the  
19 rehabilitative efforts of the Department of Corrections.

20 Section 6. For the purpose of incorporating the  
21 amendment to section 948.03, Florida Statutes, in references  
22 thereto, the following sections or subdivisions of Florida  
23 Statutes are reenacted to read:

24 947.23 Action of commission upon arrest of parolee.--

25 (6) Within a reasonable time after the hearing, the  
26 commissioner, commissioners, or duly authorized representative  
27 of the commission who conducted the hearing shall make  
28 findings of fact in regard to the alleged parole violation.

29 (a) If the hearing was conducted by three or more  
30 commissioners, a majority of them shall enter an order  
31 determining whether the charges of parole violation have been

1 sustained, based on the findings of fact made by them. By  
2 such order they shall revoke the parole and return the parolee  
3 to prison to serve the sentence theretofore imposed upon her  
4 or him, reinstate the original order of parole, order the  
5 placement of the parolee into a community control program as  
6 set forth in s. 948.03, or enter such other order as is  
7 proper.

8 (b) If the hearing was conducted by one or two  
9 commissioners or a duly authorized representative of the  
10 commission, at least two commissioners shall enter an order  
11 determining whether or not the charges of parole violation  
12 have been sustained, based on the findings of fact made by the  
13 commissioner, commissioners, or duly authorized representative  
14 of the commission. The commissioners, by such order, shall  
15 revoke the parole and return the parolee to prison to serve  
16 the sentence theretofore imposed upon her or him, reinstate  
17 the original order of parole, order the placement of the  
18 parolee into a community control program as set forth in s.  
19 948.03, or enter such other order as is proper.

20 (c) If the disposition after the revocation hearing is  
21 to place the parolee into a community control program, the  
22 commission shall be guided by the procedures and requirements  
23 provided in chapter 948 which apply to the courts regarding  
24 the development and implementation of community control.

25  
26 However, any decision to revoke parole shall be based on a  
27 violation of a term or condition specifically enumerated in  
28 the parole release order. In a case in which parole is  
29 revoked, the majority of the commission or the two  
30 commissioners shall make a written statement of the evidence  
31 relied on and the reasons for revoking parole.

1           948.001 Definitions.--As used in this chapter, the  
2 term:

3           (5) "Probation" means a form of community supervision  
4 requiring specified contacts with parole and probation  
5 officers and other terms and conditions as provided in s.  
6 948.03.

7           958.03 Definitions.--As used in this act:

8           (4) "Probation" means a form of community supervision  
9 requiring specified contacts with parole and probation  
10 officers and other terms and conditions as provided in s.  
11 948.03.

12           Section 7. Subsection (1) of section 948.06, Florida  
13 Statutes, is amended, and subsections (8) and (9) are added to  
14 said section, to read:

15           948.06 Violation of probation or community control;  
16 revocation; modification; continuance; failure to pay  
17 restitution or cost of supervision.--

18           (1) Whenever within the period of probation or  
19 community control there are reasonable grounds to believe that  
20 a violation of probation or community control occurred, or  
21 there are reasonable grounds to believe that the person under  
22 supervision is in possession of contraband or other items that  
23 the person is prohibited from possessing, the person on  
24 probation or community control may be arrested without a  
25 warrant or have his or her person, property, or residence  
26 searched without a warrant by any of the following people:

27           (a) A probation officer who is aware that the person  
28 is on probation;

29           (b) A community control officer who is aware that the  
30 person is on community control; or

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1           (c) A law enforcement officer who is requested by a  
2 probation or community control officer who has knowledge that  
3 the person is on probation or community control.

4  
5 However, if a supervising officer conducts a search without  
6 reasonable grounds, the evidence seized may only be admitted  
7 at a hearing for violation of supervision.~~Whenever within the~~  
8 ~~period of probation or community control there are reasonable~~  
9 ~~grounds to believe that a probationer or offender in community~~  
10 ~~control has violated his or her probation or community control~~  
11 ~~in a material respect, any law enforcement officer who is~~  
12 ~~aware of the probationary or community control status of the~~  
13 ~~probationer or offender in community control or any parole or~~  
14 ~~probation supervisor may arrest or request any county or~~  
15 ~~municipal law enforcement officer to arrest such probationer~~  
16 ~~or offender without warrant wherever found and forthwith~~  
17 ~~return him or her to the court granting such probation or~~  
18 ~~community control.~~Any committing magistrate may issue a  
19 warrant, upon the facts being made known to him or her by  
20 affidavit of one having knowledge of such facts, for the  
21 arrest of the probationer or offender, returnable forthwith  
22 before the court granting such probation or community control.  
23 Any parole or probation supervisor, any officer authorized to  
24 serve criminal process, or any peace officer of this state is  
25 authorized to serve and execute such warrant. The court, upon  
26 the probationer or offender being brought before it, shall  
27 advise him or her of such charge of violation and, if such  
28 charge is admitted to be true, may forthwith revoke, modify,  
29 or continue the probation or community control or place the  
30 probationer into a community control program. If probation or  
31 community control is revoked, the court shall adjudge the

1 probationer or offender guilty of the offense charged and  
2 proven or admitted, unless he or she has previously been  
3 adjudged guilty, and impose any sentence which it might have  
4 originally imposed before placing the probationer on probation  
5 or the offender into community control. If such violation of  
6 probation or community control is not admitted by the  
7 probationer or offender, the court may commit him or her or  
8 release him or her with or without bail to await further  
9 hearing, or it may dismiss the charge of probation or  
10 community control violation. If such charge is not at that  
11 time admitted by the probationer or offender and if it is not  
12 dismissed, the court, as soon as may be practicable, shall  
13 give the probationer or offender an opportunity to be fully  
14 heard on his or her behalf in person or by counsel. After such  
15 hearing, the court may revoke, modify, or continue the  
16 probation or community control or place the probationer into  
17 community control. If such probation or community control is  
18 revoked, the court shall adjudge the probationer or offender  
19 guilty of the offense charged and proven or admitted, unless  
20 he or she has previously been adjudged guilty, and impose any  
21 sentence which it might have originally imposed before placing  
22 the probationer or offender on probation or into community  
23 control.

24 (6) Any parolee in a community control program who has  
25 allegedly violated the terms and conditions of such placement  
26 is subject to the provisions of ss. 947.22 and 947.23.

27 (8) Evidence may not be excluded or suppressed from  
28 the trial of a new substantive offense if:

29 (a) The defendant was on probation, parole,  
30 conditional release, or community control at the time of the  
31 offense; and

1           (b) The search was conducted when there were  
2 reasonable grounds to believe that the defendant was in  
3 violation of the law or in violation of the terms of  
4 probation, parole, conditional release, or community control.

5  
6 For the purposes of the search of a person on probation,  
7 parole, conditional release, or community control, the term  
8 "reasonable grounds" means that the reasonable suspicion  
9 standard applies.

10           (9) Evidence may not be excluded or suppressed from a  
11 hearing for a violation of probation, parole, conditional  
12 release, or community control.

13           Section 8. For the purpose of incorporating the  
14 amendments to section 948.06, Florida Statutes, in references  
15 thereto, the following sections or subdivisions of Florida  
16 Statutes are reenacted to read:

17           948.01 When court may place defendant on probation or  
18 into community control.--

19           (9) Procedures governing violations of community  
20 control shall be the same as those described in s. 948.06 with  
21 respect to probation.

22           (11) The court may also impose a split sentence  
23 whereby the defendant is sentenced to a term of probation  
24 which may be followed by a period of incarceration or, with  
25 respect to a felony, into community control, as follows:

26           (b) If the offender does not meet the terms and  
27 conditions of probation or community control, the court may  
28 revoke, modify, or continue the probation or community control  
29 as provided in s. 948.06. If the probation or community  
30 control is revoked, the court may impose any sentence that it  
31 could have imposed at the time the offender was placed on



1 probation or community control. The court may not provide  
2 credit for time served for any portion of a probation or  
3 community control term toward a subsequent term of probation  
4 or community control. However, the court may not impose a  
5 subsequent term of probation or community control which, when  
6 combined with any amount of time served on preceding terms of  
7 probation or community control for offenses pending before the  
8 court for sentencing, would exceed the maximum penalty  
9 allowable as provided in s. 775.082. Such term of  
10 incarceration shall be served under applicable law or county  
11 ordinance governing service of sentences in state or county  
12 jurisdiction. This paragraph does not prohibit any other  
13 sanction provided by law.

14 (13) If it appears to the court upon a hearing that  
15 the defendant is a chronic substance abuser whose criminal  
16 conduct is a violation of chapter 893, the court may either  
17 adjudge the defendant guilty or stay and withhold the  
18 adjudication of guilt; and, in either case, it may stay and  
19 withhold the imposition of sentence and place the defendant on  
20 drug offender probation.

21 (b) Offenders placed on drug offender probation are  
22 subject to revocation of probation as provided in s. 948.06.

23 958.14 Violation of probation or community control  
24 program.--A violation or alleged violation of probation or the  
25 terms of a community control program shall subject the  
26 youthful offender to the provisions of s. 948.06(1). However,  
27 no youthful offender shall be committed to the custody of the  
28 department for a substantive violation for a period longer  
29 than the maximum sentence for the offense for which he or she  
30 was found guilty, with credit for time served while  
31 incarcerated, or for a technical or nonsubstantive violation

1 for a period longer than 6 years or for a period longer than  
2 the maximum sentence for the offense for which he or she was  
3 found guilty, whichever is less, with credit for time served  
4 while incarcerated.

5 Section 9. This act shall take effect July 1 of the  
6 year in which enacted.

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