

By the Committee on Crime & Punishment and Representatives
Dockery, Fasano and Putnam

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.193, F.S.; increasing the
4 period of probation with respect to a person
5 convicted of certain violations for driving
6 under the influence if restitution is ordered;
7 providing for the termination of such
8 additional probationary period under certain
9 circumstances; amending s. 948.15, F.S.;
10 conforming to the act; providing an effective
11 date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Paragraph (a) of subsection (6) of section
16 316.193, Florida Statutes, is amended to read:

17 316.193 Driving under the influence; penalties.--

18 (6) With respect to any person convicted of a
19 violation of subsection (1), regardless of any penalty imposed
20 pursuant to subsection (2), subsection (3), or subsection (4):

21 (a) For the first conviction, the court shall place
22 the defendant on probation for a period not to exceed 1 year
23 and, as a condition of such probation, shall order the
24 defendant to participate in public service or a community work
25 project for a minimum of 50 hours; or the court may order
26 instead, that any defendant pay an additional fine of \$10 for
27 each hour of public service or community work otherwise
28 required, if, after consideration of the residence or location
29 of the defendant at the time public service or community work
30 is required, payment of the fine is in the best interests of
31 the state. However, the total period of probation and

1 incarceration may not exceed 1 year unless restitution is
2 ordered. If restitution is ordered, the defendant may be
3 placed on probation, with or without incarceration as a
4 condition thereof, for a period not to exceed 5 years.
5 However, if after 1 year the defendant has completed payment
6 of restitution, fine and court costs, and is otherwise in
7 compliance with the terms of probation, the probation shall be
8 terminated.The court must also, as a condition of probation,
9 order the impoundment or immobilization of the vehicle that
10 was operated by or in the actual control of the defendant or
11 any one vehicle registered in the defendant's name at the time
12 of impoundment or immobilization, for a period of 10 days or
13 for the unexpired term of any lease or rental agreement that
14 expires within 10 days. The impoundment or immobilization must
15 not occur concurrently with the incarceration of the
16 defendant. The impoundment or immobilization order may be
17 dismissed in accordance with paragraph (e), paragraph (f), or
18 paragraph (g).

19
20 For the purposes of this section, any conviction for a
21 violation of s. 327.35; a previous conviction for the
22 violation of former s. 316.1931, former s. 860.01, or former
23 s. 316.028; or a previous conviction outside this state for
24 driving under the influence, driving while intoxicated,
25 driving with an unlawful blood-alcohol level, driving with an
26 unlawful breath-alcohol level, or any other similar
27 alcohol-related or drug-related traffic offense, is also
28 considered a previous conviction for violation of this
29 section. However, in satisfaction of the fine imposed pursuant
30 to this section, the court may, upon a finding that the
31 defendant is financially unable to pay either all or part of

1 the fine, order that the defendant participate for a specified
2 additional period of time in public service or a community
3 work project in lieu of payment of that portion of the fine
4 which the court determines the defendant is unable to pay. In
5 determining such additional sentence, the court shall consider
6 the amount of the unpaid portion of the fine and the
7 reasonable value of the services to be ordered; however, the
8 court may not compute the reasonable value of services at a
9 rate less than the federal minimum wage at the time of
10 sentencing.

11 Section 2. Subsection (1) of section 948.15, Florida
12 Statutes, is amended to read:

13 948.15 Misdemeanor probation services.--

14 (1) Defendants found guilty of misdemeanors who are
15 placed on probation shall be under supervision not to exceed 6
16 months unless otherwise specified by the court. In relation
17 to any misdemeanor offense ~~other than a felony~~ in which the
18 use of alcohol is a significant factor, the period of
19 probation may be up to 1 year except as provided in s.
20 316.193(6).

21 Section 3. This act shall take effect July 1, 2000.

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23 HOUSE SUMMARY

24
25 Authorizes the court to extend the period of probation
26 for a misdemeanor conviction of driving under the
27 influence to up to 5 years if restitution is ordered.
28 The 5-year period of probation can apply whether or not
29 incarceration was included as a condition of probation.
30 Provides that if the defendant has satisfied all
31 financial obligations within the first year of probation
and is otherwise in compliance with the terms of
probation, the probation period must be terminated.