

By the Committee on Criminal Justice

307-372C-00

1 A bill to be entitled
2 An act relating to the Department of
3 Corrections; providing legislative intent with
4 respect to the release of information to the
5 public which concerns persons under community
6 supervision by the Department of Corrections;
7 requiring the Department of Corrections to
8 update such information; providing requirements
9 with respect to the equipment provided to
10 probation officers by the Department of
11 Corrections; requiring the department to submit
12 an information technology plan to the
13 Legislature; amending s. 121.021, F.S.;
14 including certain correctional probation
15 officers within the Special Risk Class of that
16 system; amending s. 121.0515, F.S.; specifying
17 criteria for inclusion of correctional
18 probation officers in that class; providing for
19 inclusion of probation and parole circuit and
20 deputy circuit administrators in that class;
21 providing a finding of important state
22 interest; amending s. 775.089, F.S.; requiring
23 that payments collected from offenders be
24 applied toward victim restitution before
25 satisfying other financial obligations of the
26 offender; amending s. 948.01, F.S.; providing
27 that an offender who is convicted of or has
28 adjudication withheld for specified offenses
29 may not be placed on probation or community
30 control; prohibiting the court from continuing
31 community control or probation for an offender

1 whom the court finds has committed an offense
2 that is the same or similar to the original
3 offense; amending s. 948.03, F.S.; providing
4 additional requirements for offenders placed in
5 community control; providing requirements for
6 polygraph examinations; amending s. 948.032,
7 F.S.; requiring that restitution be a condition
8 of community control; providing requirements
9 for the court in determining whether to revoke
10 an offender's community control; amending s.
11 948.04, F.S.; providing requirements for the
12 supervision of offenders placed on community
13 control; amending s. 948.06, F.S.; prohibiting
14 the court from continuing community control or
15 probation for an offender whom the court finds
16 has committed an offense that is the same or
17 similar to the original offense; amending s.
18 948.11, F.S.; requiring the Department of
19 Corrections to electronically monitor
20 offenders; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. It is the intent of the Legislature to make
25 information regarding offenders who are under community
26 supervision by the Department of Corrections easily accessible
27 to the public. For offenders who are being supervised in the
28 community by the department, except persons being supervised
29 under a pretrial intervention program, the Department of
30 Corrections must compile and provide the names, current
31 addresses, and offense convictions, regardless of

1 adjudication, in a format that is reasonably accessible to the
2 public. The department shall also make the photographs of such
3 offenders accessible to the public. Any information that is
4 provided to the public must be updated within 30 days after
5 the department becomes aware of any change in the information
6 concerning or the status of an offender. The provision of such
7 information must be accomplished within existing resources of
8 the department. Upon the discharge of an offender from
9 supervision for any reason, the department shall remove the
10 information from the compilation of information concerning
11 offenders that are under community supervision by the
12 Department of Corrections within 30 days after the department
13 becomes aware of the discharge.

14 Section 2. Within existing resources and as funding is
15 provided, the Department of Corrections should provide
16 correctional probation officers with the use of radios and
17 cellular telephones to enhance the adequacy of supervision of
18 offenders and to protect officer safety when it is deemed
19 appropriate and as such equipment is available, as delineated
20 by rules adopted by the department.

21 Section 3. A probation officer who requests to carry a
22 firearm while on duty shall carry a firearm issued by the
23 Department of Corrections. Such officers must be qualified to
24 carry the department-issued firearms as required by the
25 Criminal Justice Standards and Training Commission and the
26 Department of Corrections. The Department of Corrections shall
27 begin efforts to implement this section on its effective date,
28 but shall fully implement this section by July 1, 2002. Until
29 this section has been fully implemented, the Department of
30 Corrections may allow probation officers to carry firearms in
31 accordance with the laws, administrative rules, or

1 departmental policies in existence at the time this section
2 takes effect.

3 Section 4. The Department of Corrections shall submit
4 to the Legislature an information technology plan by March 1,
5 2001, identifying the current and future needs for computer
6 equipment, software, and other equipment that can increase the
7 efficiency of probation officers.

8 Section 5. Paragraph (b) of subsection (15) of section
9 121.021, Florida Statutes, is amended to read:

10 121.021 Definitions.--The following words and phrases
11 as used in this chapter have the respective meanings set forth
12 unless a different meaning is plainly required by the context:

13 (15)

14 (b) Effective October 1, 1978, "special risk member"
15 means a member of the Florida Retirement System who is
16 designated as a special risk member by the division in
17 accordance with s. 121.0515. Such member must be employed as
18 a law enforcement officer, a firefighter, or a correctional
19 officer and must meet certain other special criteria as set
20 forth in s. 121.0515. Effective January 1, 2001, the term
21 "special risk member" also includes any member who is employed
22 as a correctional probation officer and meets the special
23 criteria set forth in s. 121.0515(2)(e).

24 Section 6. Subsection (2) of section 121.0515, Florida
25 Statutes, is amended to read:

26 121.0515 Special risk membership; criteria;
27 designation and removal of classification; credits for past
28 service and prior service; retention of special risk normal
29 retirement date.--

30 (2) CRITERIA.--A member, to be designated as a special
31 risk member, must meet the following criteria:

1 (a) The member must be employed as a law enforcement
2 officer and be certified, or required to be certified, in
3 compliance with s. 943.1395; however, sheriffs and elected
4 police chiefs shall be excluded from meeting the certification
5 requirements of this paragraph. In addition, the member's
6 duties and responsibilities must include the pursuit,
7 apprehension, and arrest of law violators or suspected law
8 violators; or the member must be an active member of a bomb
9 disposal unit whose primary responsibility is the location,
10 handling, and disposal of explosive devices; or the member
11 must be the supervisor or command officer of a member or
12 members who have such responsibilities. However,
13 administrative support personnel, including, but not limited
14 to, those whose primary duties and responsibilities are in
15 accounting, purchasing, legal, and personnel, shall not be
16 included;

17 (b) The member must be employed as a firefighter and
18 be certified, or required to be certified, in compliance with
19 s. 633.35 and be employed solely within the fire department of
20 the employer or agency of state government. In addition, the
21 member's duties and responsibilities must include on-the-scene
22 fighting of fires or direct supervision of firefighting units,
23 or the member must be the supervisor or command officer of a
24 member or members who have such responsibilities; provided,
25 however, administrative support personnel, including, but not
26 limited to, those whose primary duties and responsibilities
27 are in accounting, purchasing, legal, and personnel, shall not
28 be included;

29 (c) The member must be employed as a correctional
30 officer and be certified, or required to be certified, in
31 compliance with s. 943.1395. In addition, the member's

1 primary duties and responsibilities must be the custody, and
2 physical restraint when necessary, of prisoners or inmates
3 within a prison, jail, or other criminal detention facility,
4 or while on work detail outside the facility, or while being
5 transported; or the member must be the supervisor or command
6 officer of a member or members who have such responsibilities;
7 provided, however, administrative support personnel,
8 including, but not limited to, those whose primary duties and
9 responsibilities are in accounting, purchasing, legal, and
10 personnel, shall not be included; however, superintendents and
11 assistant superintendents shall participate in the Special
12 Risk Class; ~~or~~

13 (d) The member must be employed by a licensed Advance
14 Life Support (ALS) or Basic Life Support (BLS) employer as an
15 emergency medical technician or a paramedic and be certified
16 in compliance with s. 401.27. In addition, the member's
17 primary duties and responsibilities must include on-the-scene
18 emergency medical care. However, administrative support
19 personnel, including, but not limited to, those whose primary
20 responsibilities are in accounting, purchasing, legal, and
21 personnel, shall not be included; or-

22 (e) The member must be employed as a correctional
23 probation officer and be certified, or required to be
24 certified, in compliance with s. 943.1395. In addition, the
25 member's primary duties and responsibilities must be the
26 supervised custody, surveillance, control, investigation, and
27 counseling of assigned inmates, probationers, parolees, or
28 community controllees within institutions or the community; or
29 the member must be the supervisor of a member or members who
30 have such responsibilities. However, administrative support
31 personnel, including, but not limited to, those whose primary

1 duties and responsibilities are in accounting, purchasing,
2 legal, and personnel, shall not be included; however,
3 probation and parole circuit and deputy circuit administrators
4 shall participate in the Special Risk Class.

5 Section 7. The Legislature finds that a proper and
6 legitimate state purpose is served when employees and retirees
7 of the state and of its political subdivisions, and the
8 dependents, survivors, and beneficiaries of such employees and
9 retirees, are extended the basic protections afforded by
10 governmental retirement systems that provide fair and adequate
11 benefits and that are managed, administered, and funded in an
12 actuarially sound manner, as required by Section 14 of Article
13 X of the State Constitution and part VII of chapter 112,
14 Florida Statutes. Therefore, the Legislature determines and
15 declares that the provisions of sections 5 through 7 of this
16 act fulfill an important state interest.

17 Section 8. Subsection (11) of section 775.089, Florida
18 Statutes, is amended to read:

19 775.089 Restitution.--

20 (11)(a) The court may order the clerk of the court to
21 collect and dispense restitution payments in any case.

22 (b) The court may order the Department of Corrections
23 to collect and dispense restitution and other payments from
24 persons remanded to its custody or supervision. If the
25 Department of Corrections collects other payments from
26 offenders or inmates in addition to restitution payments, such
27 as cost-of-supervision, court costs, fines, or subsistence
28 payments, any moneys collected must be applied first toward
29 completely satisfying victim restitution before the payments
30 by the offender or inmate may be applied toward any other
31

1 financial obligation related to the offender's or inmate's
2 crime, prosecution, or sentence.

3 Section 9. Subsections (10) and (11) of section
4 948.01, Florida Statutes, are amended to read:

5 948.01 When court may place defendant on probation or
6 into community control.--

7 (10) An offender may not be placed on probation or in
8 community control if:

9 (a) Convicted of or adjudication withheld for:

10 1. Murder pursuant to s. 782.04;

11 2. Attempted felony murder pursuant to s. 782.051(1)
12 or (2);

13 3. Aggravated manslaughter pursuant to s. 782.07(2) or
14 (3);

15 4. Vehicular homicide pursuant to s. 782.071(2) or s.
16 316.193(3)(c)3.;

17 5. Vessel homicide pursuant to s. 782.072(2) or s.
18 327.35(3)(c)3.;

19 6. Aggravated assault pursuant to s. 784.021;

20 7. Aggravated battery pursuant to s. 784.045;

21 8. Aggravated stalking pursuant to s. 784.048(3), (4),
22 or (5);

23 9. Kidnapping pursuant to s. 787.01;

24 10. False imprisonment of a child under the age of 13
25 pursuant to s. 787.02(3);

26 11. Making, possessing, throwing, projecting, placing,
27 or discharging any destructive device, or threat to do so,
28 pursuant to s. 790.161(2), (3), or (4); s. 790.1615(2); s.
29 790.162; s. 790.163; or s. 790.164;

30 12. Sexual battery or attempted sexual battery
31 pursuant to ch. 794;

1 13. Lewd or lascivious offenses committed upon or in
2 the presence of a child under 16 years of age;

3 14. Arson pursuant to s. 806.01 or s. 806.031;

4 15. Armed burglary or burglary with an assault or
5 battery pursuant to s. 830.02(2) or (3);

6 16. Robbery or attempted robbery pursuant to s. 812.13
7 or s. 812.131(2)(a);

8 17. Carjacking pursuant to s. 812.133;

9 18. Home-invasion robbery pursuant to s. 812.135;

10 19. Aggravated child abuse pursuant to s. 827.03(2);

11 or

12 20. Aircraft piracy pursuant to s. 860.16; ~~a forcible~~
13 ~~felony as defined in s. 776.08, and~~

14 (b) Previously convicted of or adjudication withheld
15 for an offense listed in paragraph (a) ~~a forcible felony as~~
16 ~~defined in s. 776.08.~~

17
18 Nothing in this subsection prohibits placement of certain
19 inmates on community control pursuant to s. 947.1747. ~~For the~~
20 ~~purposes of this subsection, a forcible felony does not~~
21 ~~include manslaughter or burglary.~~

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 (a) If the offender meets the terms and conditions of
27 probation or community control, any term of incarceration may
28 be modified by court order to eliminate the term of
29 incarceration.

30 (b) If the offender does not meet the terms and
31 conditions of probation or community control, the court may

1 revoke, modify, or continue the probation or community control
2 as provided in s. 948.06. An offender on community control who
3 has been found by the court to have committed a subsequent
4 offense that is the same or substantially similar to the
5 offense for which the offender was originally sentenced to
6 community control may not be continued on community control,
7 given a new sentence of community control or any form of
8 probation, or released from supervision without the imposition
9 of an incarcerative sentence, unless the offender has served
10 his or her statutory maximum sentence under s. 775.082 or as
11 otherwise authorized by law. For purposes of this section, a
12 time-served sentence does not constitute the imposition of an
13 incarcerative sentence. However, if the offender is under
14 supervision for an offense ranked as level 1 or level 2 under
15 the Criminal Punishment Code, the court may use its discretion
16 in sentencing the offender for a violation of his or her
17 community control. For purposes of this section, the term
18 "substantially similar offense" means any offense that is
19 proscribed within the same statutory chapter as the offense
20 for which the offender was originally sentenced to community
21 control, including those sections of chapter 777 applicable
22 thereto. If the probation or community control is revoked, the
23 court may impose any sentence that it could have imposed at
24 the time the offender was placed on probation or community
25 control. The court may not provide credit for time served for
26 any portion of a probation or community control term toward a
27 subsequent term of probation or community control. However,
28 the court may not impose a subsequent term of probation or
29 community control which, when combined with any amount of time
30 served on preceding terms of probation or community control
31 for offenses pending before the court for sentencing, would

1 exceed the maximum penalty allowable as provided in s.
2 775.082. Such term of incarceration shall be served under
3 applicable law or county ordinance governing service of
4 sentences in state or county jurisdiction. This paragraph does
5 not prohibit any other sanction provided by law.

6 Section 10. Subsections (1), (2), (3), and (5) of
7 section 948.03, Florida Statutes, are amended to read:

8 948.03 Terms and conditions of probation or community
9 control.--

10 (1) The court shall determine the terms and conditions
11 of probation or community control. Conditions specified in
12 paragraphs (a) through and including (n) ~~(m)~~ do not require
13 oral pronouncement at the time of sentencing and may be
14 considered standard conditions of probation. Conditions
15 specified in paragraphs (a) through and including (n) ~~(m)~~ and
16 (2)(a) do not require oral pronouncement at sentencing and may
17 be considered standard conditions of community control. These
18 conditions may include among them the following, that the
19 probationer or offender in community control shall:

20 (a) Report to the probation officers and ~~parole~~
21 ~~supervisors~~ as directed.

22 (b) Permit such probation officers ~~supervisors~~ to
23 visit him or her at his or her home or elsewhere.

24 (c) Work faithfully at suitable employment insofar as
25 may be possible.

26 (d) Remain within a specified place.

27 (e) Make reparation or restitution to the aggrieved
28 party for the damage or loss caused by his or her offense in
29 an amount to be determined by the court. The court shall make
30 such reparation or restitution a condition of probation,
31 unless it determines that clear and compelling reasons exist

1 to the contrary. If the court does not order restitution, or
2 orders restitution of only a portion of the damages, as
3 provided in s. 775.089, it shall state on the record in detail
4 the reasons therefor.

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

17 (g) Support his or her legal dependents to the best of
18 his or her ability.

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

22 (i) Pay any application fee assessed under s.
23 27.52(1)(c) and attorney's fees and costs assessed under s.
24 938.29, subject to modification based on change of
25 circumstances.

26 (j) Not associate with persons engaged in criminal
27 activities or violate any law.

28 (k)1. Submit to random testing as directed by the
29 correctional probation officer or the professional staff of
30 the treatment center where he or she is receiving treatment to
31 determine the presence or use of alcohol or controlled

1 substances. The offender shall pay the costs for drug testing,
2 unless the offender meets any of the criteria set forth in s.
3 948.09(3).

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

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

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

19 (n) Promptly submit to the taking of a digitized
20 photograph at the request of a probation officer.

21 (o)~~(n)~~ Attend an HIV/AIDS awareness program consisting
22 of a class of not less than 2 hours or more than 4 hours in
23 length, the cost for which shall be paid by the offender, if
24 such a program is available in the county of the offender's
25 residence.

26 (p)~~(o)~~ Pay not more than \$1 per month during the term
27 of probation or community control to a nonprofit organization
28 established for the sole purpose of supplementing the
29 rehabilitative efforts of the Department of Corrections.

30
31

1 (2)(a) The court shall require intensive supervision
2 and surveillance for an offender placed into community
3 control, which may include but is not limited to:

4 1. Specified contact with the ~~parole and~~ probation
5 officer.

6 2. Confinement to an agreed-upon residence during
7 hours away from employment and public service activities.

8 3. Mandatory public service.

9 4. Supervision by the Department of Corrections by
10 means of an electronic monitoring device or system.

11 (b) For an offender placed on criminal quarantine
12 community control, the court shall require:

13 1. Electronic monitoring 24 hours per day.

14 2. Confinement to a designated residence during
15 designated hours.

16 (3)(a)1. ~~The Department of Corrections may,~~ At the
17 direction of the sentencing court, the Department of
18 Corrections shall its discretion, electronically monitor an
19 offender sentenced to community control.

20 2. The Department of Corrections shall electronically
21 monitor an offender sentenced to criminal quarantine community
22 control 24 hours per day.

23 (b) Any offender placed on community control who
24 violates the terms and conditions of community control and is
25 restored to community control may be supervised by means of an
26 electronic monitoring device or system.

27 (c) For those offenders being electronically
28 monitored, the Department of Corrections shall develop
29 procedures to determine, investigate, and report the
30 offender's noncompliance with the terms and conditions of
31

1 sentence 24 hours per day. All reports of noncompliance shall
2 be immediately investigated by a community control officer.

3 (d) The Department of Corrections may contract with
4 local law enforcement agencies to assist in the location and
5 apprehension of offenders who are in noncompliance as reported
6 by the electronic monitoring system. This contract is intended
7 to provide the department a means for providing immediate
8 investigation of noncompliance reports, especially after
9 normal office hours.

10 (5) Conditions imposed pursuant to this subsection, as
11 specified in paragraphs (a) and (b), do not require oral
12 pronouncement at the time of sentencing and shall be
13 considered standard conditions of probation or community
14 control for offenders specified in this subsection.

15 (a) Effective for probationers or community
16 controllees whose crime was committed on or after October 1,
17 1995, and who are placed under supervision for violation of
18 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court
19 must impose the following conditions in addition to all other
20 standard and special conditions imposed:

21 1. A mandatory curfew from 10 p.m. to 6 a.m. The court
22 may designate another 8-hour period ~~if the offender's~~
23 ~~employment precludes the above specified time, and such~~
24 ~~alternative is recommended by the Department of Corrections.~~
25 If the court determines that imposing a curfew would endanger
26 the victim or any potential victim, the court may consider
27 alternative sanctions.

28 2. If the victim was under the age of 18, a
29 prohibition on living within 1,000 feet of a school, day care
30 center, park, playground, or other place where children
31 regularly congregate, as prescribed by the court.

1 3. Active participation in and successful completion
2 of a sex offender treatment program with therapists
3 specifically trained to treat sex offenders, at the
4 probationer's or community controllee's own expense. If a
5 specially trained therapist is not available within a 50-mile
6 radius of the probationer's or community controllee's
7 residence, the offender shall participate in other appropriate
8 therapy.

9 4. A prohibition on any contact with the victim,
10 directly or indirectly, including through a third person,
11 unless approved by the victim, the offender's therapist, and
12 the sentencing court.

13 5. If the victim was under the age of 18, a
14 prohibition, until successful completion of a sex offender
15 treatment program, on unsupervised contact with a child under
16 the age of 18, unless authorized by the sentencing court
17 without another adult present who is responsible for the
18 child's welfare, has been advised of the crime, and is
19 approved by the sentencing court.

20 6. If the victim was under age 18, a prohibition on
21 working for pay or as a volunteer at any school, day care
22 center, park, playground, or other place where children
23 regularly congregate.

24 7. Unless otherwise indicated in the treatment plan
25 provided by the sexual offender treatment program, a
26 prohibition on viewing, owning, or possessing any obscene,
27 pornographic, or sexually stimulating visual or auditory
28 material, including telephone, electronic media, computer
29 programs, or computer services that are relevant to the
30 offender's deviant behavior pattern.

31

1 8. A requirement that the probationer or community
2 controllee must submit two specimens of blood to the Florida
3 Department of Law Enforcement to be registered with the DNA
4 data bank.

5 9. A requirement that the probationer or community
6 controllee make restitution to the victim, as ordered by the
7 court under s. 775.089, for all necessary medical and related
8 professional services relating to physical, psychiatric, and
9 psychological care.

10 10. Submission to a warrantless search by the
11 community control or probation officer of the probationer's or
12 community controllee's person, residence, or vehicle.

13 (b) Effective for a probationer or community
14 controllee whose crime was committed on or after October 1,
15 1997, and who is placed on sex offender probation or sex
16 offender community control for a violation of chapter 794, s.
17 800.04, s. 827.071, or s. 847.0145, in addition to any other
18 provision of this subsection, the court must impose the
19 following conditions of probation or community control:

20 1. As part of a treatment program, participation at
21 least annually in polygraph examinations by polygraphers who
22 are specifically trained to polygraph sex offenders to obtain
23 information necessary for risk management and treatment and to
24 reduce the sex offender's denial mechanisms. A polygraph
25 examination must be conducted by a polygrapher trained
26 specifically in the use of the polygraph for the monitoring of
27 sex offenders, where available, and shall be paid by the sex
28 offender. The results of the polygraph examination shall not
29 be used as evidence in court to prove that a violation of
30 probation or community control ~~community supervision~~ has
31 occurred.

1 2. Maintenance of a driving log and a prohibition
2 against driving a motor vehicle alone without the prior
3 approval of the supervising officer.

4 3. A prohibition against obtaining or using a post
5 office box without the prior approval of the supervising
6 officer.

7 4. If there was sexual contact, a submission to, at
8 the probationer's or community controllee's expense, an HIV
9 test with the results to be released to the victim and/or the
10 victim's parent or guardian.

11 5. ~~Electronic monitoring when deemed necessary by the~~
12 ~~community control or probation officer and his or her~~
13 ~~supervisor, and ordered by the court at the recommendation of~~
14 ~~the Department of Corrections.~~

15 Section 11. Section 948.032, Florida Statutes, is
16 amended to read:

17 948.032 Condition of probation or community control;
18 restitution.--If a defendant is placed on probation or
19 community control, any restitution ordered under s. 775.089
20 shall be a condition of the probation or community control.
21 The court may revoke probation or community control if the
22 defendant fails to comply with the order. In determining
23 whether to revoke probation or community control, the court
24 shall consider the defendant's employment status, earning
25 ability, and financial resources; the willfulness of the
26 defendant's failure to pay; and any other special
27 circumstances that may have a bearing on the defendant's
28 ability to pay.

29 Section 12. Section 948.04, Florida Statutes, is
30 amended to read:

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1 948.04 Period of probation; duty of probationer or
2 offender on community control; early termination.--

3 (1) Defendants found guilty of felonies who are placed
4 on probation shall be under supervision not to exceed 2 years
5 unless otherwise specified by the court. No defendant placed
6 on probation pursuant to s. 948.01(6) or s. 948.034 is subject
7 to the probation limitations of this subsection. A defendant
8 who is placed on probation or community control for a
9 violation of chapter 794 or chapter 827 is subject to the
10 maximum level of supervision provided by the supervising
11 agency or as otherwise directed by the sentencing court
12 pursuant to s. 948.03, and that supervision shall continue
13 through the full term of the court-imposed probation or
14 community control.

15 ~~(2) Upon the termination of the period of probation,~~
16 ~~the probationer shall be released from probation and is not~~
17 ~~liable to sentence for the offense for which probation was~~
18 ~~allowed.~~During the period of probation or community control,
19 the probationer or offender on community control shall perform
20 the terms and conditions of his or her probation or community
21 control.

22 (3) If a ~~the~~ probationer has performed satisfactorily,
23 has not been found in violation of any terms or conditions of
24 supervision, and has met all financial sanctions imposed by
25 the court, including, but not limited to, fines, court costs,
26 and restitution, the Department of Corrections may recommend
27 early termination of probation to the court at any time before
28 the scheduled termination date.

29 Section 13. Subsections (1) and (4) of section 948.06,
30 Florida Statutes, are amended to read:

31

1 948.06 Violation of probation or community control;
2 revocation; modification; continuance; failure to pay
3 restitution or cost of supervision.--

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

1 it might have originally imposed before placing the
2 probationer on probation or the offender into community
3 control. If such violation of probation or community control
4 is not admitted by the probationer or offender, the court may
5 commit him or her or release him or her with or without bail
6 to await further hearing, or it may dismiss the charge of
7 probation or community control violation. If such charge is
8 not at that time admitted by the probationer or offender and
9 if it is not dismissed, the court, as soon as may be
10 practicable, shall give the probationer or offender an
11 opportunity to be fully heard on his or her behalf in person
12 or by counsel. After such hearing, the court may revoke,
13 modify, or continue the probation or community control or
14 place the probationer into community control. An offender on
15 community control who has been found by the court to have
16 committed a subsequent offense that is the same or
17 substantially similar to the offense or offenses for which the
18 offender was originally sentenced to community control may not
19 be continued on community control, given a new sentence of
20 community control or any form of probation, or be released
21 from supervision without the imposition of an incarcerative
22 sentence, unless the offender has served his or her statutory
23 maximum sentence under s. 775.082 or as otherwise authorized
24 by law. For purposes of this section, a time-served sentence
25 does not constitute the imposition of an incarcerative
26 sentence. However, if the offender is under supervision for an
27 offense ranked as level 1 or level 2 under the Criminal
28 Punishment Code, the court may use its discretion in
29 sentencing the offender for a violation of his or her
30 community control. For purposes of this section, the term
31 "substantially similar offense" means any offense that is

1 proscribed within the same statutory chapter as the offense
2 for which the offender was originally sentenced to community
3 control, including those sections of chapter 777 applicable
4 thereto. If such probation or community control is revoked,
5 the court shall adjudge the probationer or offender guilty of
6 the offense charged and proven or admitted, unless he or she
7 has previously been adjudged guilty, and impose any sentence
8 which it might have originally imposed before placing the
9 probationer or offender on probation or into community
10 control.

11 (4) Notwithstanding any other provision of this
12 section, a probationer or an offender in community control who
13 is arrested for violating his or her probation or community
14 control in a material respect may be taken before the court in
15 the county or circuit in which the probationer or offender was
16 arrested. That court shall advise him or her of such charge of
17 a violation and, if such charge is admitted, shall cause him
18 or her to be brought before the court which granted the
19 probation or community control. If such violation is not
20 admitted by the probationer or offender, the court may commit
21 him or her or release him or her with or without bail to await
22 further hearing. The court, as soon as is practicable, shall
23 give the probationer or offender an opportunity to be fully
24 heard on his or her behalf in person or by counsel. After such
25 hearing, the court shall make findings of fact and forward the
26 findings to the court which granted the probation or community
27 control and to the probationer or offender or his or her
28 attorney. The findings of fact by the hearing court are
29 binding on the court which granted the probation or community
30 control. Upon the probationer or offender being brought
31 before it, the court which granted the probation or community

1 control may revoke, modify, or continue the probation or
2 community control or may place the probationer into community
3 control as provided in this section. A court may not place an
4 offender on a lesser form of supervision through a
5 modification or imposition of a new sentence after a
6 revocation if it finds an offender has violated his or her
7 community supervision in any material respect. In addition, a
8 court may not terminate an offender's community supervision as
9 a result of an offender's violation without imposing a further
10 penalty, unless the person has served his or her statutory
11 maximum sentence under s. 775.082 or as otherwise authorized
12 by law. For purposes of this section, a time-served sentence
13 does not constitute a further penalty.

14 Section 14. Section 948.11, Florida Statutes, is
15 amended to read:

16 948.11 Electronic monitoring devices.--

17 (1) Pursuant to chapter 287, the department shall
18 issue a request for proposal for electronic monitoring devices
19 to be utilized by the department for purposes of electronic
20 monitoring under this section or any other section of law
21 which authorizes electronic monitoring. Electronic monitoring
22 devices certified for use by the department must be licensed
23 by the FCC, must be capable of maintaining full operation on a
24 backup power source for 8 hours, and must meet such other
25 necessary and vital specifications as may be set by the
26 department for tamper-alert, efficient, and economical usage.
27 The provisions of this section do not apply to passive
28 devices.

29 (2) The Department of Corrections must maintain the
30 capability to electronically monitor offenders through
31 radio-frequency devices and global-positioning-system devices

1 as funding is provided by the Legislature. Options for
2 electronic monitoring of offenders should be maintained for
3 use by sentencing courts to maximize public safety and to make
4 the appropriate monitoring of offenders as cost efficient as
5 possible.

6 Section 15. This act shall take effect October 1,
7 2000, except that this section and section 3 of this act shall
8 take effect upon becoming a law and sections 5 through 7 of
9 this act shall take effect January 1, 2001.

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11 *****

12 SENATE SUMMARY

13 Requires that the Department of Corrections make
14 information on offenders who are under community
15 supervision available to the public and to update such
16 information. Includes correctional probation officers in
17 the Special Risk Class of the Florida Retirement System
18 if they meet prescribed criteria. Includes probation and
19 parole regional administrators in the Special Risk Class.
20 Requires that payments collected from offenders be
21 applied toward victim restitution before such payments
22 are used to satisfy other financial obligations of the
23 offender. Provides that an offender who is convicted of
24 or has adjudication withheld for specified offenses may
25 not be placed on probation or community control.
26 Prohibits the court from continuing community control or
27 probation for an offender whom the court finds has
28 committed an offense that is the same or similar to the
29 original offense. Requires that restitution be a
30 condition of community control. Requires that the
31 Department of Corrections electronically monitor
offenders on community control. (See bill for details.)