

By the Committees on Governmental Oversight and Productivity;
and Criminal Justice

302-1873-00

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. 775.089, F.S.;
14 requiring that payments collected from
15 offenders be applied toward victim restitution
16 before satisfying other financial obligations
17 of the offender; amending s. 948.01, F.S.;
18 providing that an offender who is convicted of
19 or has adjudication withheld for specified
20 offenses may not be placed on probation or
21 community control; prohibiting the court from
22 continuing community control or probation for
23 an offender whom the court finds has committed
24 an offense that is the same or similar to the
25 original offense; amending s. 948.03, F.S.;
26 providing additional requirements for offenders
27 placed in community control; providing
28 requirements for polygraph examinations;
29 amending s. 948.032, F.S.; requiring that
30 restitution be a condition of community
31 control; providing requirements for the court

1 in determining whether to revoke an offender's
2 community control; amending s. 948.04, F.S.;
3 providing requirements for the supervision of
4 offenders placed on community control; amending
5 s. 948.06, F.S.; prohibiting the court from
6 continuing community control or probation for
7 an offender whom the court finds has committed
8 an offense that is the same or similar to the
9 original offense; amending s. 948.11, F.S.;
10 requiring the Department of Corrections to
11 electronically monitor offenders; providing an
12 effective date.

13

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

15

16 Section 1. It is the intent of the Legislature to make
17 information regarding offenders who are under community
18 supervision by the Department of Corrections easily accessible
19 to the public. For offenders who are being supervised in the
20 community by the department, except persons being supervised
21 under a pretrial intervention program, the Department of
22 Corrections must compile and provide the names, current
23 addresses, and offense convictions, regardless of
24 adjudication, in a format that is reasonably accessible to the
25 public. The department shall also make the photographs of such
26 offenders accessible to the public. Any information that is
27 provided to the public must be updated within 30 days after
28 the department becomes aware of any change in the information
29 concerning or the status of an offender. The provision of such
30 information must be accomplished within existing resources of
31 the department. Upon the discharge of an offender from

1 supervision for any reason, the department shall remove the
2 information from the compilation of information concerning
3 offenders that are under community supervision by the
4 Department of Corrections within 30 days after the department
5 becomes aware of the discharge.

6 Section 2. Within existing resources and as funding is
7 provided, the Department of Corrections should provide
8 correctional probation officers with the use of radios and
9 cellular telephones to enhance the adequacy of supervision of
10 offenders and to protect officer safety when it is deemed
11 appropriate and as such equipment is available, as delineated
12 by rules adopted by the department.

13 Section 3. A probation officer who requests to carry a
14 firearm while on duty shall carry a firearm issued by the
15 Department of Corrections. Such officers must be qualified to
16 carry the department-issued firearms as required by the
17 Criminal Justice Standards and Training Commission and the
18 Department of Corrections. The Department of Corrections shall
19 begin efforts to implement this section on its effective date,
20 but shall fully implement this section by July 1, 2002. Until
21 this section has been fully implemented, the Department of
22 Corrections may allow probation officers to carry firearms in
23 accordance with the laws, administrative rules, or
24 departmental policies in existence at the time this section
25 takes effect.

26 Section 4. The Department of Corrections shall submit
27 to the Legislature an information technology plan by March 1,
28 2001, identifying the current and future needs for computer
29 equipment, software, and other equipment that can increase the
30 efficiency of probation officers. The information technology
31

1 plan must be reviewed in accordance with section 216.0446,
2 Florida Statutes.

3 Section 5. Subsection (11) of section 775.089, Florida
4 Statutes, is amended to read:

5 775.089 Restitution.--

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

8 (b) The court may order the Department of Corrections
9 to collect and dispense restitution and other payments from
10 persons remanded to its custody or supervision. If the
11 Department of Corrections collects other payments from
12 offenders or inmates in addition to restitution payments, such
13 as cost-of-supervision, court costs, fines, or subsistence
14 payments, any moneys collected must be applied first toward
15 completely satisfying victim restitution before the payments
16 by the offender or inmate may be applied toward any other
17 financial obligation related to the offender's or inmate's
18 crime, prosecution, or sentence.

19 Section 6. Subsections (10) and (11) of section
20 948.01, Florida Statutes, are amended to read:

21 948.01 When court may place defendant on probation or
22 into community control.--

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

25 (a) Convicted of or adjudication withheld for:

26 1. Murder pursuant to s. 782.04;

27 2. Attempted felony murder pursuant to s. 782.051(1)

28 or (2);

29 3. Aggravated manslaughter pursuant to s. 782.07(2) or

30 (3);

31

- 1 4. Vehicular homicide pursuant to s. 782.071(2) or s.
2 316.193(3)(c)3.;
3 5. Vessel homicide pursuant to s. 782.072(2) or s.
4 327.35(3)(c)3.;
5 6. Aggravated assault pursuant to s. 784.021;
6 7. Aggravated battery pursuant to s. 784.045;
7 8. Aggravated stalking pursuant to s. 784.048(3), (4),
8 or (5);
9 9. Kidnapping pursuant to s. 787.01;
10 10. False imprisonment of a child under the age of 13
11 pursuant to s. 787.02(3);
12 11. Making, possessing, throwing, projecting, placing,
13 or discharging any destructive device, or threat to do so,
14 pursuant to s. 790.161(2), (3), or (4); s. 790.1615(2); s.
15 790.162; s. 790.163; or s. 790.164;
16 12. Sexual battery or attempted sexual battery
17 pursuant to ch. 794;
18 13. Lewd or lascivious offenses committed upon or in
19 the presence of a child under 16 years of age;
20 14. Arson pursuant to s. 806.01 or s. 806.031;
21 15. Armed burglary or burglary with an assault or
22 battery pursuant to s. 830.02(2) or (3);
23 16. Robbery or attempted robbery pursuant to s. 812.13
24 or s. 812.131(2)(a);
25 17. Carjacking pursuant to s. 812.133;
26 18. Home-invasion robbery pursuant to s. 812.135;
27 19. Aggravated child abuse pursuant to s. 827.03(2);
28 or
29 20. Aircraft piracy pursuant to s. 860.16;~~a forcible~~
30 ~~felony as defined in s. 776.08, and~~
31

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

4
5 Nothing in this subsection prohibits placement of certain
6 inmates on community control pursuant to s. 947.1747. ~~For the~~
7 ~~purposes of this subsection, a forcible felony does not~~
8 ~~include manslaughter or burglary.~~

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

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

17 (b) If the offender does not meet the terms and
18 conditions of probation or community control, the court may
19 revoke, modify, or continue the probation or community control
20 as provided in s. 948.06. An offender on community control who
21 has been found by the court to have committed a subsequent
22 offense that is the same or substantially similar to the
23 offense for which the offender was originally sentenced to
24 community control may not be continued on community control,
25 given a new sentence of community control or any form of
26 probation, or released from supervision without the imposition
27 of an incarcerative sentence, unless the offender has served
28 his or her statutory maximum sentence under s. 775.082 or as
29 otherwise authorized by law. For purposes of this section, a
30 time-served sentence does not constitute the imposition of an
31 incarcerative sentence. However, if the offender is under

1 supervision for an offense ranked as level 1 or level 2 under
2 the Criminal Punishment Code, the court may use its discretion
3 in sentencing the offender for a violation of his or her
4 community control. For purposes of this section, the term
5 "substantially similar offense" means any offense that is
6 proscribed within the same statutory chapter as the offense
7 for which the offender was originally sentenced to community
8 control, including those sections of chapter 777 applicable
9 thereto. If the probation or community control is revoked, the
10 court may impose any sentence that it could have imposed at
11 the time the offender was placed on probation or community
12 control. The court may not provide credit for time served for
13 any portion of a probation or community control term toward a
14 subsequent term of probation or community control. However,
15 the court may not impose a subsequent term of probation or
16 community control which, when combined with any amount of time
17 served on preceding terms of probation or community control
18 for offenses pending before the court for sentencing, would
19 exceed the maximum penalty allowable as provided in s.
20 775.082. Such term of incarceration shall be served under
21 applicable law or county ordinance governing service of
22 sentences in state or county jurisdiction. This paragraph does
23 not prohibit any other sanction provided by law.

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

26 948.03 Terms and conditions of probation or community
27 control.--

28 (1) The court shall determine the terms and conditions
29 of probation or community control. Conditions specified in
30 paragraphs (a) through and including (n) ~~(m)~~ do not require
31 oral pronouncement at the time of sentencing and may be

1 considered standard conditions of probation. Conditions
2 specified in paragraphs (a) through and including (n) ~~(m)~~ and
3 (2)(a) do not require oral pronouncement at sentencing and may
4 be considered standard conditions of community control. These
5 conditions may include among them the following, that the
6 probationer or offender in community control shall:

7 (a) Report to the probation officers and ~~parole~~
8 ~~supervisors~~ as directed.

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

11 (c) Work faithfully at suitable employment insofar as
12 may be possible.

13 (d) Remain within a specified place.

14 (e) Make reparation or restitution to the aggrieved
15 party for the damage or loss caused by his or her offense in
16 an amount to be determined by the court. The court shall make
17 such reparation or restitution a condition of probation,
18 unless it determines that clear and compelling reasons exist
19 to the contrary. If the court does not order restitution, or
20 orders restitution of only a portion of the damages, as
21 provided in s. 775.089, it shall state on the record in detail
22 the reasons therefor.

23 (f) Effective July 1, 1994, and applicable for
24 offenses committed on or after that date, make payment of the
25 debt due and owing to a county or municipal detention facility
26 under s. 951.032 for medical care, treatment, hospitalization,
27 or transportation received by the felony probationer while in
28 that detention facility. The court, in determining whether to
29 order such repayment and the amount of such repayment, shall
30 consider the amount of the debt, whether there was any fault
31 of the institution for the medical expenses incurred, the

1 financial resources of the felony probationer, the present and
2 potential future financial needs and earning ability of the
3 probationer, and dependents, and other appropriate factors.

4 (g) Support his or her legal dependents to the best of
5 his or her ability.

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

9 (i) Pay any application fee assessed under s.
10 27.52(1)(c) and attorney's fees and costs assessed under s.
11 938.29, subject to modification based on change of
12 circumstances.

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

15 (k)1. Submit to random testing as directed by the
16 correctional probation officer or the professional staff of
17 the treatment center where he or she is receiving treatment to
18 determine the presence or use of alcohol or controlled
19 substances. The offender shall pay the costs for drug testing,
20 unless the offender meets any of the criteria set forth in s.
21 948.09(3).

22 2. If the offense was a controlled substance violation
23 and the period of probation immediately follows a period of
24 incarceration in the state correction system, the conditions
25 shall include a requirement that the offender submit to random
26 substance abuse testing intermittently throughout the term of
27 supervision, upon the direction of the correctional probation
28 officer as defined in s. 943.10(3).

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

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

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

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

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

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

20 1. Specified contact with the ~~parole and~~ probation
21 officer.

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

24 3. Mandatory public service.

25 4. Supervision by the Department of Corrections by
26 means of an electronic monitoring device or system.

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

29 1. Electronic monitoring 24 hours per day.

30 2. Confinement to a designated residence during
31 designated hours.

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

5 2. The Department of Corrections shall electronically
6 monitor an offender sentenced to criminal quarantine community
7 control 24 hours per day.

8 (b) Any offender placed on community control who
9 violates the terms and conditions of community control and is
10 restored to community control may be supervised by means of an
11 electronic monitoring device or system.

12 (c) For those offenders being electronically
13 monitored, the Department of Corrections shall develop
14 procedures to determine, investigate, and report the
15 offender's noncompliance with the terms and conditions of
16 sentence 24 hours per day. All reports of noncompliance shall
17 be immediately investigated by a community control officer.

18 (d) The Department of Corrections may contract with
19 local law enforcement agencies to assist in the location and
20 apprehension of offenders who are in noncompliance as reported
21 by the electronic monitoring system. This contract is intended
22 to provide the department a means for providing immediate
23 investigation of noncompliance reports, especially after
24 normal office hours.

25 (5) Conditions imposed pursuant to this subsection, as
26 specified in paragraphs (a) and (b), do not require oral
27 pronouncement at the time of sentencing and shall be
28 considered standard conditions of probation or community
29 control for offenders specified in this subsection.

30 (a) Effective for probationers or community
31 controllees whose crime was committed on or after October 1,

1 1995, and who are placed under supervision for violation of
2 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court
3 must impose the following conditions in addition to all other
4 standard and special conditions imposed:

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

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

16 3. Active participation in and successful completion
17 of a sex offender treatment program with therapists
18 specifically trained to treat sex offenders, at the
19 probationer's or community controllee's own expense. If a
20 specially trained therapist is not available within a 50-mile
21 radius of the probationer's or community controllee's
22 residence, the offender shall participate in other appropriate
23 therapy.

24 4. A prohibition on any contact with the victim,
25 directly or indirectly, including through a third person,
26 unless approved by the victim, the offender's therapist, and
27 the sentencing court.

28 5. If the victim was under the age of 18, a
29 prohibition, until successful completion of a sex offender
30 treatment program, on unsupervised contact with a child under
31 the age of 18, unless authorized by the sentencing court

1 without another adult present who is responsible for the
2 child's welfare, has been advised of the crime, and is
3 approved by the sentencing court.

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

8 7. Unless otherwise indicated in the treatment plan
9 provided by the sexual offender treatment program, a
10 prohibition on viewing, owning, or possessing any obscene,
11 pornographic, or sexually stimulating visual or auditory
12 material, including telephone, electronic media, computer
13 programs, or computer services that are relevant to the
14 offender's deviant behavior pattern.

15 8. A requirement that the probationer or community
16 controllee must submit two specimens of blood to the Florida
17 Department of Law Enforcement to be registered with the DNA
18 data bank.

19 9. A requirement that the probationer or community
20 controllee make restitution to the victim, as ordered by the
21 court under s. 775.089, for all necessary medical and related
22 professional services relating to physical, psychiatric, and
23 psychological care.

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

27 (b) Effective for a probationer or community
28 controllee whose crime was committed on or after October 1,
29 1997, and who is placed on sex offender probation or sex
30 offender community control for a violation of chapter 794, s.
31 800.04, s. 827.071, or s. 847.0145, in addition to any other

1 provision of this subsection, the court must impose the
2 following conditions of probation or community control:

3 1. As part of a treatment program, participation at
4 least annually in polygraph examinations by polygraphers who
5 are specifically trained to polygraph sex offenders to obtain
6 information necessary for risk management and treatment and to
7 reduce the sex offender's denial mechanisms. A polygraph
8 examination must be conducted by a polygrapher trained
9 specifically in the use of the polygraph for the monitoring of
10 sex offenders, where available, and shall be paid by the sex
11 offender. The results of the polygraph examination shall not
12 be used as evidence in court to prove that a violation of
13 probation or community control ~~community supervision~~ has
14 occurred.

15 2. Maintenance of a driving log and a prohibition
16 against driving a motor vehicle alone without the prior
17 approval of the supervising officer.

18 3. A prohibition against obtaining or using a post
19 office box without the prior approval of the supervising
20 officer.

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

25 5. Electronic monitoring when ~~deemed necessary by the~~
26 ~~community control or probation officer and his or her~~
27 ~~supervisor, and ordered by the court at the recommendation of~~
28 ~~the Department of Corrections.~~

29 Section 8. Section 948.032, Florida Statutes, is
30 amended to read:

31

1 948.032 Condition of probation or community control;
2 restitution.--If a defendant is placed on probation or
3 community control, any restitution ordered under s. 775.089
4 shall be a condition of the probation or community control.
5 The court may revoke probation or community control if the
6 defendant fails to comply with the order. In determining
7 whether to revoke probation or community control, the court
8 shall consider the defendant's employment status, earning
9 ability, and financial resources; the willfulness of the
10 defendant's failure to pay; and any other special
11 circumstances that may have a bearing on the defendant's
12 ability to pay.

13 Section 9. Section 948.04, Florida Statutes, is
14 amended to read:

15 948.04 Period of probation; duty of probationer or
16 offender on community control; early termination.--

17 (1) Defendants found guilty of felonies who are placed
18 on probation shall be under supervision not to exceed 2 years
19 unless otherwise specified by the court. No defendant placed
20 on probation pursuant to s. 948.01(6) or s. 948.034 is subject
21 to the probation limitations of this subsection. A defendant
22 who is placed on probation or community control for a
23 violation of chapter 794 or chapter 827 is subject to the
24 maximum level of supervision provided by the supervising
25 agency or as otherwise directed by the sentencing court
26 pursuant to s. 948.03, and that supervision shall continue
27 through the full term of the court-imposed probation or
28 community control.

29 ~~(2) Upon the termination of the period of probation,~~
30 ~~the probationer shall be released from probation and is not~~
31 ~~liable to sentence for the offense for which probation was~~

1 ~~allowed.~~ During the period of probation or community control,
2 the probationer or offender on community control shall perform
3 the terms and conditions of his or her probation or community
4 control.

5 (3) If a ~~the~~ probationer has performed satisfactorily,
6 has not been found in violation of any terms or conditions of
7 supervision, and has met all financial sanctions imposed by
8 the court, including, but not limited to, fines, court costs,
9 and restitution, the Department of Corrections may recommend
10 early termination of probation to the court at any time before
11 the scheduled termination date.

12 Section 10. Subsections (1) and (4) of section 948.06,
13 Florida Statutes, are amended to read:

14 948.06 Violation of probation or community control;
15 revocation; modification; continuance; failure to pay
16 restitution or cost of supervision.--

17 (1) Whenever within the period of probation or
18 community control there are reasonable grounds to believe that
19 a probationer or offender in community control has violated
20 his or her probation or community control in a material
21 respect, any law enforcement officer who is aware of the
22 probationary or community control status of the probationer or
23 offender in community control or any parole or probation
24 officer ~~supervisor~~ may arrest or request any county or
25 municipal law enforcement officer to arrest such probationer
26 or offender without warrant wherever found and forthwith
27 return him or her to the court granting such probation or
28 community control. Any committing magistrate may issue a
29 warrant, upon the facts being made known to him or her by
30 affidavit of one having knowledge of such facts, for the
31 arrest of the probationer or offender, returnable forthwith

1 before the court granting such probation or community control.
2 Any parole or probation ~~officer supervisor~~, any officer
3 authorized to serve criminal process, or any peace officer of
4 this state is authorized to serve and execute such warrant.
5 The court, upon the probationer or offender being brought
6 before it, shall advise him or her of such charge of violation
7 and, if such charge is admitted to be true, may forthwith
8 revoke, modify, or continue the probation or community control
9 or place the probationer into a community control program. If
10 probation or community control is revoked, the court shall
11 adjudge the probationer or offender guilty of the offense
12 charged and proven or admitted, unless he or she has
13 previously been adjudged guilty, and impose any sentence which
14 it might have originally imposed before placing the
15 probationer on probation or the offender into community
16 control. If such violation of probation or community control
17 is not admitted by the probationer or offender, the court may
18 commit him or her or release him or her with or without bail
19 to await further hearing, or it may dismiss the charge of
20 probation or community control violation. If such charge is
21 not at that time admitted by the probationer or offender and
22 if it is not dismissed, the court, as soon as may be
23 practicable, shall give the probationer or offender an
24 opportunity to be fully heard on his or her behalf in person
25 or by counsel. After such hearing, the court may revoke,
26 modify, or continue the probation or community control or
27 place the probationer into community control. An offender on
28 community control who has been found by the court to have
29 committed a subsequent offense that is the same or
30 substantially similar to the offense or offenses for which the
31 offender was originally sentenced to community control may not

1 be continued on community control, given a new sentence of
2 community control or any form of probation, or be released
3 from supervision without the imposition of an incarcerative
4 sentence, unless the offender has served his or her statutory
5 maximum sentence under s. 775.082 or as otherwise authorized
6 by law. For purposes of this section, a time-served sentence
7 does not constitute the imposition of an incarcerative
8 sentence. However, if the offender is under supervision for an
9 offense ranked as level 1 or level 2 under the Criminal
10 Punishment Code, the court may use its discretion in
11 sentencing the offender for a violation of his or her
12 community control. For purposes of this section, the term
13 "substantially similar offense" means any offense that is
14 proscribed within the same statutory chapter as the offense
15 for which the offender was originally sentenced to community
16 control, including those sections of chapter 777 applicable
17 thereto. If such probation or community control is revoked,
18 the court shall adjudge the probationer or offender guilty of
19 the offense charged and proven or admitted, unless he or she
20 has previously been adjudged guilty, and impose any sentence
21 which it might have originally imposed before placing the
22 probationer or offender on probation or into community
23 control.

24 (4) Notwithstanding any other provision of this
25 section, a probationer or an offender in community control who
26 is arrested for violating his or her probation or community
27 control in a material respect may be taken before the court in
28 the county or circuit in which the probationer or offender was
29 arrested. That court shall advise him or her of such charge of
30 a violation and, if such charge is admitted, shall cause him
31 or her to be brought before the court which granted the

1 probation or community control. If such violation is not
2 admitted by the probationer or offender, the court may commit
3 him or her or release him or her with or without bail to await
4 further hearing. The court, as soon as is practicable, shall
5 give the probationer or offender an opportunity to be fully
6 heard on his or her behalf in person or by counsel. After such
7 hearing, the court shall make findings of fact and forward the
8 findings to the court which granted the probation or community
9 control and to the probationer or offender or his or her
10 attorney. The findings of fact by the hearing court are
11 binding on the court which granted the probation or community
12 control. Upon the probationer or offender being brought
13 before it, the court which granted the probation or community
14 control may revoke, modify, or continue the probation or
15 community control or may place the probationer into community
16 control as provided in this section. A court may not place an
17 offender on a lesser form of supervision through a
18 modification or imposition of a new sentence after a
19 revocation if it finds an offender has violated his or her
20 community supervision in any material respect. In addition, a
21 court may not terminate an offender's community supervision as
22 a result of an offender's violation without imposing a further
23 penalty, unless the person has served his or her statutory
24 maximum sentence under s. 775.082 or as otherwise authorized
25 by law. For purposes of this section, a time-served sentence
26 does not constitute a further penalty.

27 Section 11. Section 948.11, Florida Statutes, is
28 amended to read:

29 948.11 Electronic monitoring devices.--

30 (1) Pursuant to chapter 287, the department shall
31 issue a request for proposal for electronic monitoring devices

1 to be utilized by the department for purposes of electronic
2 monitoring under this section or any other section of law
3 which authorizes electronic monitoring. Electronic monitoring
4 devices certified for use by the department must be licensed
5 by the FCC, must be capable of maintaining full operation on a
6 backup power source for 8 hours, and must meet such other
7 necessary and vital specifications as may be set by the
8 department for tamper-alert, efficient, and economical usage.
9 The provisions of this section do not apply to passive
10 devices.

11 (2) The Department of Corrections must maintain the
12 capability to electronically monitor offenders through
13 radio-frequency devices and global-positioning-system devices
14 as funding is provided by the Legislature. Options for
15 electronic monitoring of offenders should be maintained for
16 use by sentencing courts to maximize public safety and to make
17 the appropriate monitoring of offenders as cost efficient as
18 possible.

19 Section 12. This act shall take effect October 1,
20 2000, except that this section and section 3 of this act shall
21 take effect upon becoming a law.

22
23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24 COMMITTEE SUBSTITUTE FOR
25 SB 2212

26 Deletes sections five through seven of the bill which expanded
27 the Special Risk Class of the Florida Retirement System to
28 include probation officers and their supervisors, as well as
29 probation and parole deputy and circuit administrators.

30 Adds that the information technology plan required to be
31 submitted by the Department of Corrections to the Legislature
must be reviewed in accordance with s. 216.0446, F.S.