

By the Committees on Corrections, Governmental Operations
and Representatives Crady, Fasano, Kilmer and Cantens

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

1 community control or probation for an offender
2 whom the court finds has committed an offense
3 that is the same or similar to the original
4 offense; amending s. 948.03, F.S.; providing
5 additional requirements for offenders placed in
6 community control; requiring the department to
7 electronically monitor offenders sentenced to
8 community control; providing requirements for
9 polygraph examinations; amending s. 948.032,
10 F.S.; requiring that restitution be a condition
11 of community control; providing requirements
12 for the court in determining whether to revoke
13 an offender's community control; amending s.
14 948.04, F.S.; providing requirements for the
15 supervision of offenders placed on community
16 control; amending s. 948.06, F.S.; prohibiting
17 the court from continuing community control or
18 probation for an offender whom the court finds
19 has committed an offense that is the same or
20 similar to the original offense; amending s.
21 948.11, F.S.; requiring the Department of
22 Corrections to electronically monitor
23 offenders; providing effective dates.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. It is the intent of the Legislature to make
28 information regarding offenders who are under community
29 supervision by the Department of Corrections easily accessible
30 to the public. For offenders who are being supervised in the
31 community by the department, except persons being supervised

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

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

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

1 probation officers to carry firearms in accordance with the
2 laws, administrative rules, or departmental policies in
3 existence at the time this section takes effect.

4 (2) This section shall take effect upon this act
5 becoming a law.

6 Section 4. The Department of Corrections shall submit
7 to the Legislature an information technology plan by March 1,
8 2001, identifying the current and future needs for computer
9 equipment, software, and other equipment that can increase the
10 efficiency of probation officers.

11 Section 5. Effective January 1, 2001, paragraph (b) of
12 subsection (15) of section 121.021, Florida Statutes, is
13 amended to read:

14 121.021 Definitions.--The following words and phrases
15 as used in this chapter have the respective meanings set forth
16 unless a different meaning is plainly required by the context:

17 (15)

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

28 Section 6. Effective January 1, 2001, subsection (2)
29 of section 121.0515, Florida Statutes, is amended to read:

30 121.0515 Special risk membership; criteria;
31 designation and removal of classification; credits for past

1 service and prior service; retention of special risk normal
2 retirement date.--
3 (2) CRITERIA.--A member, to be designated as a special
4 risk member, must meet the following criteria:
5 (a) The member must be employed as a law enforcement
6 officer and be certified, or required to be certified, in
7 compliance with s. 943.1395; however, sheriffs and elected
8 police chiefs shall be excluded from meeting the certification
9 requirements of this paragraph. In addition, the member's
10 duties and responsibilities must include the pursuit,
11 apprehension, and arrest of law violators or suspected law
12 violators; or the member must be an active member of a bomb
13 disposal unit whose primary responsibility is the location,
14 handling, and disposal of explosive devices; or the member
15 must be the supervisor or command officer of a member or
16 members who have such responsibilities; provided, however,
17 administrative support personnel, including, but not limited
18 to, those whose primary duties and responsibilities are in
19 accounting, purchasing, legal, and personnel, shall not be
20 included;
21 (b) The member must be employed as a firefighter and
22 be certified, or required to be certified, in compliance with
23 s. 633.35 and be employed solely within the fire department of
24 the employer or agency of state government. In addition, the
25 member's duties and responsibilities must include on-the-scene
26 fighting of fires or direct supervision of firefighting units,
27 or the member must be the supervisor or command officer of a
28 member or members who have such responsibilities; provided,
29 however, administrative support personnel, including, but not
30 limited to, those whose primary duties and responsibilities
31

1 are in accounting, purchasing, legal, and personnel, shall not
2 be included;

3 (c) The member must be employed as a correctional
4 officer and be certified, or required to be certified, in
5 compliance with s. 943.1395. In addition, the member's
6 primary duties and responsibilities must be the custody, and
7 physical restraint when necessary, of prisoners or inmates
8 within a prison, jail, or other criminal detention facility,
9 or while on work detail outside the facility, or while being
10 transported; or the member must be the supervisor or command
11 officer of a member or members who have such responsibilities;
12 provided, however, administrative support personnel,
13 including, but not limited to, those whose primary duties and
14 responsibilities are in accounting, purchasing, legal, and
15 personnel, shall not be included; however, superintendents and
16 assistant superintendents shall participate in the Special
17 Risk Class; ~~or~~

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

27 (e) The member must be employed as a correctional
28 probation officer and be certified, or required to be
29 certified, in compliance with s. 943.1395. In addition, the
30 member's primary duties and responsibilities must be the
31 supervised custody, surveillance, control, investigation, and

1 counseling of assigned inmates, probationers, parolees, or
2 community controllees within institutions or the community, or
3 the member must be the supervisor of a member or members who
4 have such responsibilities. However, administrative support
5 personnel, including, but not limited to, those whose primary
6 duties and responsibilities are in accounting, purchasing,
7 legal, and personnel, shall not be included. However,
8 probation and parole circuit and deputy circuit administrators
9 shall participate in the Special Risk Class.

10 Section 7. (1) The Legislature finds that a proper
11 and legitimate state purpose is served when employees and
12 retirees of the state and its political subdivisions, and the
13 dependents, survivors, and beneficiaries of such employees and
14 retirees, are extended the basic protections afforded by
15 governmental retirement systems that provide fair and adequate
16 benefits and that are managed, administered, and funded in an
17 actuarially sound manner, as required by s. 14, Art. X of the
18 State Constitution and part VII of chapter 112, Florida
19 Statutes. Therefore, the Legislature determines and declares
20 that the provisions of sections 5 through 7 of this act
21 fulfill an important state interest.

22 (2) This section shall take effect January 1, 2001.

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

25 775.089 Restitution.--

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

28 (b) The court may order the Department of Corrections
29 to collect and dispense restitution and other payments from
30 persons remanded to its custody or supervision. If the
31 Department of Corrections collects other payments from

1 offenders or inmates in addition to restitution payments, such
2 as cost of supervision, court costs, fines, or subsistence
3 payments, any moneys collected must be applied first toward
4 completely satisfying victim restitution before the payments
5 by the offender or inmate may be applied toward any other
6 financial obligation relating to the offender's or inmate's
7 crime, prosecution, or sentence.

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

10 948.01 When court may place defendant on probation or
11 into community control.--

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

14 (a) Convicted of or adjudication withheld for:

15 1. Murder pursuant to s. 782.04;

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

17 or (2);

18 3. Aggravated manslaughter pursuant to s. 782.07(2) or
19 (3);

20 4. Vehicular homicide pursuant to s. 782.071(2) or s.
21 316.193(3)(c)3.;

22 5. Vessel homicide pursuant to s. 782.072(2) or s.
23 327.35(3)(c)3.;

24 6. Aggravated assault pursuant to s. 784.021;

25 7. Aggravated battery pursuant to s. 784.045;

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

28 9. Kidnapping pursuant to s. 787.01;

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

31

- 1 11. Making, possessing, throwing, projecting, placing,
2 or discharging any destructive device, threat to do so, or
3 false report thereof pursuant to s. 790.161(2), (3), or (4),
4 s. 790.1615(2), s. 790.162, s. 790.163, or s. 790.164;
5 12. Sexual battery or attempted sexual battery
6 pursuant to chapter 794;
7 13. Lewd or lascivious offenses committed upon or in
8 the presence of a child under 16 years of age pursuant to s.
9 800.04;
10 14. Arson pursuant to s. 806.01 or s. 806.031;
11 15. Armed burglary or burglary with assault or battery
12 pursuant to s. 810.02(2) or (3);
13 16. Robbery or attempted robbery pursuant to s. 812.13
14 or s. 812.131(2)(a);
15 17. Carjacking pursuant to s. 812.133;
16 18. Home-invasion robbery pursuant to s. 812.135;
17 19. Aggravated child abuse pursuant to s. 827.03(2);
18 or
19 20. Aircraft piracy pursuant to s. 860.16;~~a forcible~~
20 ~~felony as defined in s. 776.08,~~and
21 (b) Previously convicted of or adjudication withheld
22 for an offense listed in paragraph (a)~~a forcible felony as~~
23 ~~defined in s. 776.08.~~
24
25 Nothing in this subsection prohibits placement of certain
26 inmates on community control pursuant to s. 947.1747. ~~For the~~
27 ~~purposes of this subsection, a forcible felony does not~~
28 ~~include manslaughter or burglary.~~
29 (11) The court may also impose a split sentence
30 whereby the defendant is sentenced to a term of probation
31

1 which may be followed by a period of incarceration or, with
2 respect to a felony, into community control, as follows:

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

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

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

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

16 948.03 Terms and conditions of probation or community
17 control.--

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

28 (a) Report to the probation officers ~~and parole~~
29 ~~supervisors~~ as directed.

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

- 1 (c) Work faithfully at suitable employment insofar as
2 may be possible.
- 3 (d) Remain within a specified place.
- 4 (e) Make reparation or restitution to the aggrieved
5 party for the damage or loss caused by his or her offense in
6 an amount to be determined by the court. The court shall make
7 such reparation or restitution a condition of probation,
8 unless it determines that clear and compelling reasons exist
9 to the contrary. If the court does not order restitution, or
10 orders restitution of only a portion of the damages, as
11 provided in s. 775.089, it shall state on the record in detail
12 the reasons therefor.
- 13 (f) Effective July 1, 1994, and applicable for
14 offenses committed on or after that date, make payment of the
15 debt due and owing to a county or municipal detention facility
16 under s. 951.032 for medical care, treatment, hospitalization,
17 or transportation received by the felony probationer while in
18 that detention facility. The court, in determining whether to
19 order such repayment and the amount of such repayment, shall
20 consider the amount of the debt, whether there was any fault
21 of the institution for the medical expenses incurred, the
22 financial resources of the felony probationer, the present and
23 potential future financial needs and earning ability of the
24 probationer, and dependents, and other appropriate factors.
- 25 (g) Support his or her legal dependents to the best of
26 his or her ability.
- 27 (h) Make payment of the debt due and owing to the
28 state under s. 960.17, subject to modification based on change
29 of circumstances.
- 30 (i) Pay any application fee assessed under s.
31 27.52(1)(c) and attorney's fees and costs assessed under s.

1 938.29, subject to modification based on change of
2 circumstances.

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

5 (k)1. Submit to random testing as directed by the
6 correctional probation officer or the professional staff of
7 the treatment center where he or she is receiving treatment to
8 determine the presence or use of alcohol or controlled
9 substances. The offender shall pay the costs for drug testing,
10 unless the offender meets any of the criteria set forth in s.
11 948.09(3).

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

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

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

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

29 (o)~~(n)~~ Attend an HIV/AIDS awareness program consisting
30 of a class of not less than 2 hours or more than 4 hours in
31 length, the cost for which shall be paid by the offender, if

1 such a program is available in the county of the offender's
2 residence.

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

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

10 1. Specified contact with the parole and probation
11 officer.

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

14 3. Mandatory public service.

15 4. Supervision by the Department of Corrections by
16 means of an electronic monitoring device or system.

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

19 1. Electronic monitoring 24 hours per day.

20 2. Confinement to a designated residence during
21 designated hours.

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

26 2. The Department of Corrections shall electronically
27 monitor an offender sentenced to criminal quarantine community
28 control 24 hours per day.

29 (b) Any offender placed on community control who
30 violates the terms and conditions of community control and is
31

1 restored to community control may be supervised by means of an
2 electronic monitoring device or system.

3 (c) For those offenders being electronically
4 monitored, the Department of Corrections shall develop
5 procedures to determine, investigate, and report the
6 offender's noncompliance with the terms and conditions of
7 sentence 24 hours per day. All reports of noncompliance shall
8 be immediately investigated by a community control officer.

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

16 (5) Conditions imposed pursuant to this subsection, as
17 specified in paragraphs (a) and (b), do not require oral
18 pronouncement at the time of sentencing and shall be
19 considered standard conditions of probation or community
20 control for offenders specified in this subsection.

21 (a) Effective for probationers or community
22 controllees whose crime was committed on or after October 1,
23 1995, and who are placed under supervision for violation of
24 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court
25 must impose the following conditions in addition to all other
26 standard and special conditions imposed:

27 1. A mandatory curfew from 10 p.m. to 6 a.m. The court
28 may designate another 8-hour period ~~if the offender's~~
29 ~~employment precludes the above specified time, and such~~
30 ~~alternative is recommended by the Department of Corrections.~~
31 If the court determines that imposing a curfew would endanger

1 the victim or any potential victim, the court may consider
2 alternative sanctions.

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

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

15 4. A prohibition on any contact with the victim,
16 directly or indirectly, including through a third person,
17 unless approved by the victim, the offender's therapist, and
18 the sentencing court.

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

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

30 7. Unless otherwise indicated in the treatment plan
31 provided by the sexual offender treatment program, a

1 prohibition on viewing, owning, or possessing any obscene,
2 pornographic, or sexually stimulating visual or auditory
3 material, including telephone, electronic media, computer
4 programs, or computer services that are relevant to the
5 offender's deviant behavior pattern.

6 8. A requirement that the probationer or community
7 controllee must submit two specimens of blood to the Florida
8 Department of Law Enforcement to be registered with the DNA
9 data bank.

10 9. A requirement that the probationer or community
11 controllee make restitution to the victim, as ordered by the
12 court under s. 775.089, for all necessary medical and related
13 professional services relating to physical, psychiatric, and
14 psychological care.

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

18 (b) Effective for a probationer or community
19 controllee whose crime was committed on or after October 1,
20 1997, and who is placed on sex offender probation or sex
21 offender community control for a violation of chapter 794, s.
22 800.04, s. 827.071, or s. 847.0145, in addition to any other
23 provision of this subsection, the court must impose the
24 following conditions of probation or community control:

25 1. As part of a treatment program, participation at
26 least annually in polygraph examinations by polygraphers who
27 are specifically trained to polygraph sex offenders to obtain
28 information necessary for risk management and treatment and to
29 reduce the sex offender's denial mechanisms. A polygraph
30 examination must be conducted by a polygrapher trained
31 specifically in the use of the polygraph for the monitoring of

1 sex offenders, where available, and shall be paid by the sex
2 offender. The results of the polygraph examination shall not
3 be used as evidence in court to prove that a violation of
4 probation or community control ~~community supervision~~ has
5 occurred.

6 2. Maintenance of a driving log and a prohibition
7 against driving a motor vehicle alone without the prior
8 approval of the supervising officer.

9 3. A prohibition against obtaining or using a post
10 office box without the prior approval of the supervising
11 officer.

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

16 5. Electronic monitoring when ~~deemed necessary by the~~
17 ~~community control or probation officer and his or her~~
18 ~~supervisor, and ordered by the court at the recommendation of~~
19 ~~the Department of Corrections.~~

20 Section 11. Section 948.032, Florida Statutes, is
21 amended to read:

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

1 circumstances that may have a bearing on the defendant's
2 ability to pay.

3 Section 12. Section 948.04, Florida Statutes, is
4 amended to read:

5 948.04 Period of probation or community control; duty
6 of probationer or offender on community control; early
7 termination.--

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

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

27 (3) If a ~~the~~ probationer or offender on community
28 control has performed satisfactorily, has not been found in
29 violation of any terms or conditions of supervision, and has
30 met all financial sanctions imposed by the court, including,
31 but not limited to, fines, court costs, and restitution, the

1 Department of Corrections may recommend early termination of
2 probation or community control to the court at any time before
3 the scheduled termination date.

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

6 948.06 Violation of probation or community control;
7 revocation; modification; continuance; failure to pay
8 restitution or cost of supervision.--

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

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

1 offense ranked as level 1 or level 2 under the Criminal
2 Punishment Code, the court may use its discretion in
3 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 such probation or community control is revoked,
10 the court shall adjudge the probationer or offender guilty of
11 the offense charged and proven or admitted, unless he or she
12 has previously been adjudged guilty, and impose any sentence
13 which it might have originally imposed before placing the
14 probationer or offender on probation or into community
15 control.

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

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

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

21 948.11 Electronic monitoring devices.--

22 (1) Pursuant to chapter 287, the Department of
23 Corrections shall issue a request for proposal for electronic
24 monitoring devices to be utilized by the department for
25 purposes of electronic monitoring under this section or any
26 other section of law which authorizes electronic monitoring.
27 Electronic monitoring devices certified for use by the
28 department must be licensed by the FCC, must be capable of
29 maintaining full operation on a backup power source for 8
30 hours, and must meet such other necessary and vital
31 specifications as may be set by the department for

1 tamper-alert, efficient, and economical usage. The provisions
2 of this section do not apply to passive devices.

3 (2) The Department of Corrections must maintain the
4 capability to electronically monitor offenders through
5 radio-frequency devices and global-positioning-system devices
6 to the extent that funding is provided by the Legislature.
7 Options for electronic monitoring of offenders should be
8 maintained for use by sentencing courts to maximize public
9 safety and to make the appropriate monitoring of offenders as
10 cost-efficient as possible.

11 Section 15. Except as otherwise provided herein, this
12 act shall take effect October 1, 2000.

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