

A bill to be entitled

An act relating to the electronic monitoring of probationers and community controllees; amending s. 948.03, F.S.; requiring the court to order the electronic monitoring of certain sex offenders whose crime is committed on or after a specified date; amending s. 948.11, F.S.; requiring the Department of Corrections to use an electronic monitoring system that reports the location of a monitored offender and correlates that information with other crime data; providing requirements for the capacity of the monitoring system; requiring a statewide steering committee to oversee and evaluate the system; providing an appropriation; reenacting ss. 948.001(5) and 958.03(4), relating to the definition of probation, for the purpose of incorporating the amendment to s. 948.03, F.S., in references thereto; providing an effective date.

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

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

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

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

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30 (a) Effective for probationers or community controllees  
31 whose crime was committed on or after October 1, 1995, and who  
32 are placed under supervision for violation of chapter 794, s.  
33 800.04, s. 827.071, or s. 847.0145, the court must impose the  
34 following conditions in addition to all other standard and  
35 special conditions imposed:

36 1. A mandatory curfew from 10 p.m. to 6 a.m. The court may  
37 designate another 8-hour period if the offender's employment  
38 precludes the above specified time, and such alternative is  
39 recommended by the Department of Corrections. If the court  
40 determines that imposing a curfew would endanger the victim, the  
41 court may consider alternative sanctions.

42 2. If the victim was under the age of 18, a prohibition on  
43 living within 1,000 feet of a school, day care center, park,  
44 playground, or other place where children regularly congregate,  
45 as prescribed by the court. The 1,000-foot distance shall be  
46 measured in a straight line from the offender's place of  
47 residence to the nearest boundary line of the school, day care  
48 center, park, playground, or other place where children  
49 congregate. The distance may not be measured by a pedestrian  
50 route or automobile route.

51 3. Active participation in and successful completion of a  
52 sex offender treatment program with therapists specifically  
53 trained to treat sex offenders, at the probationer's or  
54 community controllee's own expense. If a specially trained  
55 therapist is not available within a 50-mile radius of the  
56 probationer's or community controllee's residence, the offender  
57 shall participate in other appropriate therapy.

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58 4. A prohibition on any contact with the victim, directly  
59 or indirectly, including through a third person, unless approved  
60 by the victim, the offender's therapist, and the sentencing  
61 court.

62 5. If the victim was under the age of 18, a prohibition,  
63 until successful completion of a sex offender treatment program,  
64 on unsupervised contact with a child under the age of 18, unless  
65 authorized by the sentencing court without another adult present  
66 who is responsible for the child's welfare, has been advised of  
67 the crime, and is approved by the sentencing court.

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

72 7. Unless otherwise indicated in the treatment plan  
73 provided by the sexual offender treatment program, a prohibition  
74 on viewing, owning, or possessing any obscene, pornographic, or  
75 sexually stimulating visual or auditory material, including  
76 telephone, electronic media, computer programs, or computer  
77 services that are relevant to the offender's deviant behavior  
78 pattern.

79 8. A requirement that the probationer or community  
80 controllee must submit two specimens of blood or other approved  
81 biological specimens to the Florida Department of Law  
82 Enforcement to be registered with the DNA data bank.

83 9. A requirement that the probationer or community  
84 controllee make restitution to the victim, as ordered by the  
85 court under s. 775.089, for all necessary medical and related

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86 professional services relating to physical, psychiatric, and  
 87 psychological care.

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

91 (b) Effective for a probationer or community controllee  
 92 whose crime was committed on or after October 1, 1997, and who  
 93 is placed on sex offender probation for a violation of chapter  
 94 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any  
 95 other provision of this subsection, the court must impose the  
 96 following conditions of probation or community control:

97 1. As part of a treatment program, participation at least  
 98 annually in polygraph examinations to obtain information  
 99 necessary for risk management and treatment and to reduce the  
 100 sex offender's denial mechanisms. A polygraph examination must  
 101 be conducted by a polygrapher trained specifically in the use of  
 102 the polygraph for the monitoring of sex offenders, where  
 103 available, and shall be paid by the sex offender. The results of  
 104 the polygraph examination shall not be used as evidence in court  
 105 to prove that a violation of community supervision has occurred.

106 2. Maintenance of a driving log and a prohibition against  
 107 driving a motor vehicle alone without the prior approval of the  
 108 supervising officer.

109 3. A prohibition against obtaining or using a post office  
 110 box without the prior approval of the supervising officer.

111 4. If there was sexual contact, a submission to, at the  
 112 probationer's or community controllee's expense, an HIV test  
 113 with the results to be released to the victim or ~~and/or~~ the  
 114 victim's parent or guardian.

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115           5. Electronic monitoring when deemed necessary by the  
 116 community control or probation officer and his or her  
 117 supervisor, and ordered by the court at the recommendation of  
 118 the Department of Corrections.

119           (c) Effective for a probationer or community controllee  
 120 whose crime was committed on or after July 1, 2004, and who is  
 121 placed under supervision for a violation of chapter 794, s.  
 122 800.04, s. 827.071, or s. 847.0145, the court must order  
 123 electronic monitoring in addition to all other standard and  
 124 special conditions imposed.

125           Section 2. Section 948.11, Florida Statutes, is amended to  
 126 read:

127           948.11 Electronic monitoring devices.--

128           (1) Pursuant to chapter 287, the department shall issue a  
 129 request for proposal for electronic monitoring devices to be  
 130 used ~~utilized~~ by the department for purposes of electronic  
 131 monitoring under this section or any other section of law which  
 132 authorizes electronic monitoring. Electronic monitoring devices  
 133 certified for use by the department must be licensed by the FCC,  
 134 must be capable of maintaining full operation on a backup power  
 135 source for 8 hours, and must meet such other necessary and vital  
 136 specifications as may be set by the department for tamper-alert,  
 137 efficient, and economical usage. The provisions of this section  
 138 do not apply to passive devices.

139           (2) The department shall use a system of electronic  
 140 monitoring that identifies the location of a monitored offender  
 141 and timely reports the offender's presence near a crime scene,  
 142 entrance into a prohibited area, or departure from specified  
 143 geographical limitations.

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144 (a) The system shall be designed and executed in such a  
 145 manner so that it contains all data concerning criminal  
 146 incidents available throughout the state, including detailed  
 147 geographical inclusion and exclusion zones if a monitored person  
 148 is lawfully prohibited from leaving or entering certain  
 149 locations.

150 (b) The system shall be designed to provide either real  
 151 time or delayed reporting of the monitored person's location and  
 152 any correlation with the location of a crime or with the  
 153 person's exit from an inclusion zone or entry into a prohibited  
 154 zone. This shall include, but need not be limited to:

155 1. Timely alerts and reports to the Department of  
 156 Corrections when a supervised offender enters or leaves an  
 157 inclusion or exclusion zone.

158 2. Timely alerts and reports to appropriate local law  
 159 enforcement officials when any supervised offender is identified  
 160 as being at or near a crime scene.

161  
 162 The supervising agency shall determine whether reporting of  
 163 location and correlation with crime data shall be real time or  
 164 delayed, and the length of delay, depending upon the seriousness  
 165 of the monitored person's offense or offenses.

166 (c) The system shall monitor a minimum of 1,000 offenders  
 167 on state community control supervision or state probation. The  
 168 following offenders shall be given priority for monitoring and  
 169 crime-correlation reporting under the system:

170 1. All convicted sex offenders who may lawfully be  
 171 required to submit to electronic monitoring. If more than 1,000  
 172 offenders are subject to this requirement, the Department of

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173 Corrections shall determine which offenders to monitor based  
174 upon risk-assessment criteria.

175 2. If fewer than 1,000 convicted sex offenders may  
176 lawfully be required to submit to electronic monitoring, the  
177 remainder of the 1,000 tracked offenders shall be offenders  
178 under the jurisdiction of the Department of Corrections who are  
179 likely to commit sexual offenses or violent crimes and who may  
180 lawfully be required to submit to electronic monitoring. The  
181 Department of Corrections shall determine which offenders to  
182 monitor, based upon risk-assessment criteria.

183 (d) A statewide steering committee, comprised of  
184 representatives of the Office of the Attorney General, the  
185 Department of Law Enforcement, the Department of Corrections,  
186 the Parole Commission, sheriffs' offices, police departments,  
187 and other criminal justice officials, as deemed appropriate,  
188 shall oversee and guide the monitoring system and provide for  
189 project evaluation.

190 Section 3. The sum of \$7.8 million is appropriated from  
191 the General Revenue Trust Fund to the Department of Corrections  
192 for the purpose of contracting for an integrated statewide  
193 offender tracking and crime-reporting system, which shall be  
194 fully operational by December 1, 2004.

195 Section 4. For the purpose of incorporating the amendment  
196 to section 948.03, Florida Statutes, in a reference thereto,  
197 subsection (5) of section 948.001, Florida Statutes, is  
198 reenacted to read:

199 948.001 Definitions.--As used in this chapter, the term:

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

203 Section 5. For the purpose of incorporating the amendment  
 204 to section 948.03, Florida Statutes, in references thereto,  
 205 subsection (4) of section 958.03, Florida Statutes, is reenacted  
 206 to read:

207 958.03 Definitions.--As used in this act:

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

211 Section 6. This act shall take effect upon becoming a law.