

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to the electronic monitoring of
8 probationers and community controllees; amending s.
9 948.03, F.S.; requiring the court to order the electronic
10 monitoring of certain sex offenders whose crime is
11 committed on or after a specified date; amending s.
12 948.11, F.S.; requiring the Department of Corrections to
13 use an electronic monitoring system that reports the
14 location of a monitored offender and correlates that
15 information with other crime data; providing requirements
16 for the capacity of the monitoring system; requiring a
17 statewide steering committee to oversee and evaluate the
18 system; providing an appropriation; reenacting ss.
19 948.001(5) and 958.03(4), F.S.; relating to the definition
20 of probation, for the purpose of incorporating the
21 amendment to s. 948.03, F.S., in references thereto;
22 providing an effective date.

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

25

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

28 948.03 Terms and conditions of probation or community
29 control.--

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

35 (a) Effective for probationers or community controllees
36 whose crime was committed on or after October 1, 1995, and who
37 are placed under supervision for violation of chapter 794, s.
38 800.04, s. 827.071, or s. 847.0145, the court must impose the
39 following conditions in addition to all other standard and
40 special conditions imposed:

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

47 2. If the victim was under the age of 18, a prohibition on
48 living within 1,000 feet of a school, day care center, park,
49 playground, or other place where children regularly congregate,
50 as prescribed by the court. The 1,000-foot distance shall be
51 measured in a straight line from the offender's place of

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52 residence to the nearest boundary line of the school, day care
53 center, park, playground, or other place where children
54 congregate. The distance may not be measured by a pedestrian
55 route or automobile route.

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

63 4. A prohibition on any contact with the victim, directly
64 or indirectly, including through a third person, unless approved
65 by the victim, the offender's therapist, and the sentencing
66 court.

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

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

77 7. Unless otherwise indicated in the treatment plan
78 provided by the sexual offender treatment program, a prohibition
79 on viewing, owning, or possessing any obscene, pornographic, or

80 sexually stimulating visual or auditory material, including
81 telephone, electronic media, computer programs, or computer
82 services that are relevant to the offender's deviant behavior
83 pattern.

84 8. A requirement that the probationer or community
85 controllee must submit two specimens of blood or other approved
86 biological specimens to the Florida Department of Law
87 Enforcement to be registered with the DNA data bank.

88 9. A requirement that the probationer or community
89 controllee make restitution to the victim, as ordered by the
90 court under s. 775.089, for all necessary medical and related
91 professional services relating to physical, psychiatric, and
92 psychological care.

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

96 (b) Effective for a probationer or community controllee
97 whose crime was committed on or after October 1, 1997, and who
98 is placed on sex offender probation for a violation of chapter
99 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any
100 other provision of this subsection, the court must impose the
101 following conditions of probation or community control:

102 1. As part of a treatment program, participation at least
103 annually in polygraph examinations to obtain information
104 necessary for risk management and treatment and to reduce the
105 sex offender's denial mechanisms. A polygraph examination must
106 be conducted by a polygrapher trained specifically in the use of
107 the polygraph for the monitoring of sex offenders, where

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108 available, and shall be paid by the sex offender. The results of
109 the polygraph examination shall not be used as evidence in court
110 to prove that a violation of community supervision has occurred.

111 2. Maintenance of a driving log and a prohibition against
112 driving a motor vehicle alone without the prior approval of the
113 supervising officer.

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

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

120 5. Electronic monitoring when deemed necessary by the
121 community control or probation officer and his or her
122 supervisor, and ordered by the court at the recommendation of
123 the Department of Corrections.

124 (c) Effective for a probationer or community controllee
125 whose crime was committed on or after July 1, 2004, and who is
126 placed under supervision for a violation of chapter 794, s.
127 800.04, s. 827.071, or s. 847.0145, the court must order
128 electronic monitoring in addition to all other standard and
129 special conditions imposed.

130 Section 2. Section 948.11, Florida Statutes, is amended to
131 read:

132 948.11 Electronic monitoring devices.--

133 (1) Pursuant to chapter 287, the department shall issue a
134 request for proposal for electronic monitoring devices to be
135 used ~~utilized~~ by the department for purposes of electronic

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136 monitoring under this section or any other section of law which
137 authorizes electronic monitoring. Electronic monitoring devices
138 certified for use by the department must be licensed by the FCC,
139 must be capable of maintaining full operation on a backup power
140 source for 8 hours, and must meet such other necessary and vital
141 specifications as may be set by the department for tamper-alert,
142 efficient, and economical usage. The provisions of this section
143 do not apply to passive devices.

144 (2) The department shall use a system of electronic
145 monitoring that identifies the location of a monitored offender
146 and timely reports the offender's presence near a crime scene,
147 entrance into a prohibited area, or departure from specified
148 geographical limitations.

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

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

160 1. Timely alerts and reports to the Department of
161 Corrections when a supervised offender enters or leaves an
162 inclusion or exclusion zone.

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

166
167 The supervising agency shall determine whether reporting of
168 location and correlation with crime data shall be real time or
169 delayed, and the length of delay, depending upon the seriousness
170 of the monitored person's offense or offenses.

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

175 1. All probationers and community controllees who have
176 been court ordered to submit to electronic monitoring pursuant
177 to s. 948.03(5)(b) or s. 948.03(5)(c). If more than 1,000
178 offenders are subject to this requirement, the Department of
179 Corrections shall determine which offenders to monitor based
180 upon risk-assessment criteria.

181 2. If fewer than 1,000 probationers and community
182 controllees are court ordered to submit to electronic monitoring
183 pursuant to s. 948.03(5)(b) or s. 948.03(5)(c), the remainder of
184 the 1,000 tracked offenders shall be offenders under the
185 jurisdiction of the Department of Corrections who have been
186 previously convicted of sexual offenses or violent crimes and
187 who are court ordered to submit to electronic monitoring. For
188 the purposes of this subparagraph, the term "conviction" means a
189 determination of guilt that is the result of a plea or a trial,
190 regardless of whether adjudication is withheld or whether a plea

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191 of nolo contendere is entered. The Department of Corrections
 192 shall determine which offenders to monitor based upon risk-
 193 assessment criteria.

194 (d) A statewide steering committee, comprised of
 195 representatives of the Office of the Attorney General, the
 196 Department of Law Enforcement, the Department of Corrections,
 197 the Parole Commission, sheriffs' offices, police departments,
 198 and other criminal justice officials, as deemed appropriate,
 199 shall oversee and guide the monitoring system and provide for
 200 project evaluation.

201 Section 3. The sum of \$7.8 million is appropriated from
 202 the General Revenue Fund to the Department of Corrections for
 203 the purpose of contracting for an integrated statewide offender
 204 tracking and crime-reporting system, which shall be fully
 205 operational by December 1, 2004.

206 Section 4. For the purpose of incorporating the amendment
 207 to section 948.03, Florida Statutes, in a reference thereto,
 208 subsection (5) of section 948.001, Florida Statutes, is
 209 reenacted to read:

210 948.001 Definitions.--As used in this chapter, the term:

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

214 Section 5. For the purpose of incorporating the amendment
 215 to section 948.03, Florida Statutes, in a reference thereto,
 216 subsection (4) of section 958.03, Florida Statutes, is reenacted
 217 to read:

218 958.03 Definitions.--As used in this act:

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219 (4) "Probation" means a form of community supervision
220 requiring specified contacts with parole and probation officers
221 and other terms and conditions as provided in s. 948.03.
222 Section 6. This act shall take effect upon becoming a law.