

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 probation and community control;  
8 amending s. 901.15, F.S.; authorizing law enforcement  
9 officers to make warrantless arrests of certain  
10 probationers, community controllees, and parolees;  
11 amending s. 921.187, F.S.; limiting the circumstances in  
12 which certain offenders may be placed on community control  
13 or probation; defining the term "disqualifying forcible  
14 felony;" creating s. 903.0473, F.S.; authorizing the court  
15 to order an appearance bond as a condition of an  
16 offender's probation, community control, or other  
17 community supervision; requiring the appearance of the  
18 offender pursuant to the conditions of the bond, subject  
19 to notice; providing for the surrender of the offender in  
20 certain circumstances; providing for estreatment and  
21 forfeiture of the bond in circumstances involving the  
22 offender's failure to appear; amending s. 947.22, F.S.;  
23 authorizing local law enforcement officers to provide

24 | certain assistance to probation officers; amending s.  
25 | 948.01, F.S.; deleting a 2-year limitation on the duration  
26 | of community control or public service; limiting the  
27 | circumstances in which certain offenders may be placed on  
28 | community control or probation; defining the term  
29 | "disqualifying forcible felony;" amending s. 948.03, F.S.;  
30 | deleting a reference to parole supervisors; revising the  
31 | standard conditions of probation and community control  
32 | that do not require oral pronouncement; requiring  
33 | probationers and community controllees to report monthly  
34 | to the probation officer; requiring probationers and  
35 | community controllees to account for specified  
36 | information; authorizing the Department of Corrections to  
37 | include electronic monitoring as a condition of the  
38 | monthly report; requiring certain probationers and  
39 | community controllees to submit to random, monthly  
40 | substance abuse testing; prohibiting probationers and  
41 | community controllees from using or possessing controlled  
42 | substance or drugs without a prescription; providing that  
43 | the standard conditions of probation and community control  
44 | include a requirement to remain on such supervision  
45 | without violating the law and to not have contact with any  
46 | victim of the offense unless authorized by the court;  
47 | amending s. 948.032, F.S.; providing that it is the  
48 | defendant's responsibility to prove inability to pay  
49 | court-ordered restitution; amending s. 948.06, F.S.;  
50 | authorizing local law enforcement officers to provide  
51 | certain assistance to probation officers; providing for

52 | the tolling of the period of probation pursuant to  
53 | warrantless arrest; requiring that high-risk felony  
54 | probationers or community controllees be held without bail  
55 | for alleged violations of nonmonetary conditions of  
56 | supervision; providing for the Department of Corrections  
57 | to make reports to the court concerning disposition  
58 | recommendations for certain violations of probation or  
59 | community control; providing for the form and contents of  
60 | such report; specifying contents of reports alleging  
61 | violations involving court-ordered obligations; providing  
62 | for the court to conduct "danger to the community  
63 | hearings" in certain circumstances; specifying  
64 | circumstances that may indicate a defendant poses a risk  
65 | of physical harm to persons; providing that a finding that  
66 | defendant poses a risk of physical harm to persons must be  
67 | established by a preponderance of the evidence; specifying  
68 | a period of incarceration for defendants found to pose a  
69 | risk of physical harm to others; providing a definition  
70 | for the term, "high-risk felony;" providing for  
71 | representation and participation by the state in  
72 | proceedings under ch. 948, F.S.; providing applicability;  
73 | creating s. 948.062, F.S.; providing for the inspector  
74 | general of the Department of Corrections to review the  
75 | circumstances surrounding specified offenses occurring  
76 | while certain offenders are under supervision of the  
77 | department; providing for the Department of Corrections to  
78 | annually submit the reviews to the Office of Program  
79 | Policy Analysis and Governmental Accountability; requiring

80 | the Office of Program Policy Analysis and Governmental  
81 | Accountability to submit an annual report based upon the  
82 | reviews; specifying the minimum contents of such report;  
83 | amending s. 948.10, F.S.; providing for the department to  
84 | review an offender's eligibility for probation in certain  
85 | circumstances; providing for reports concerning such  
86 | eligibility; amending ss. 958.14 and 921.0017, F.S.;  
87 | revising cross references, to conform; reenacting s.  
88 | 570.073(2), F.S., relating to the arrest powers of law  
89 | enforcement officers employed by the Department of  
90 | Agriculture and Consumer Services, for the purpose of  
91 | incorporating the amendment to s. 901.15, F.S., in a  
92 | reference thereto; reenacting ss. 372.921(5) and  
93 | 372.922(4), F.S., relating to certain dispositions of  
94 | offenses involving the exhibition or sale of wildlife and  
95 | certain dispositions of offenses involving the personal  
96 | possession of wildlife, respectively, for the purpose of  
97 | incorporating the amendment to s. 921.187, F.S., in  
98 | references thereto; reenacting s. 921.187(1)(a), F.S.,  
99 | relating to sentencing alternatives, for the purpose of  
100 | incorporating the amendment to s. 948.01, F.S., in a  
101 | reference thereto; reenacting ss. 775.089(1)(a),  
102 | 948.001(5), 958.03(4), and 947.23(6), F.S., relating to  
103 | restitution, the definition of the term "probation" for  
104 | purposes of ch. 948, F.S., the definition of the term  
105 | "probation" for purposes of the Florida Youthful Offender  
106 | Act, and actions upon arrest of parolees, respectively,  
107 | for the purpose of incorporating the amendment to s.

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108 948.03, F.S., in references thereto; reenacting s.  
 109 948.01(9), (11)(b), and (13)(b), F.S., relating to  
 110 procedures governing violations, revocations,  
 111 modifications, and continuations of community control, for  
 112 the purpose of incorporating the amendment to s. 948.06,  
 113 F.S., in references thereto; providing effective dates.

114

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

116

117 Section 1. Subsection (17) is added to section 901.15,  
 118 Florida Statutes, to read:

119 901.15 When arrest by officer without warrant is  
 120 lawful.--A law enforcement officer may arrest a person without a  
 121 warrant when:

122 (17) The officer is making an arrest of a person on  
 123 probation, community control, or parole pursuant to s. 948.06(1)  
 124 or s. 947.22.

125 Section 2. Subsection (2) of section 921.187, Florida  
 126 Statutes, is amended, and paragraph (a) of subsection (1) of  
 127 said section is reenacted for the purpose of incorporating the  
 128 amendment to section 948.01, Florida Statutes, in a reference  
 129 thereto, to read:

130 921.187 Disposition and sentencing; alternatives;  
 131 restitution.--

132 (1) The alternatives provided in this section for the  
 133 disposition of criminal cases shall be used in a manner that  
 134 will best serve the needs of society, punish criminal offenders,  
 135 and provide the opportunity for rehabilitation.

136 (a) If the offender does not receive a state prison  
 137 sentence, the court may:

138 1. Impose a split sentence whereby the offender is to be  
 139 placed on probation upon completion of any specified period of  
 140 such sentence, which period may include a term of years or less.

141 2. Make any other disposition that is authorized by law.

142 3. Place the offender on probation with or without an  
 143 adjudication of guilt pursuant to s. 948.01.

144 4. Impose a fine and probation pursuant to s. 948.011 when  
 145 the offense is punishable by both a fine and imprisonment and  
 146 probation is authorized.

147 5. Place the offender into community control requiring  
 148 intensive supervision and surveillance pursuant to chapter 948.

149 6. Impose, as a condition of probation or community  
 150 control, a period of treatment which shall be restricted to a  
 151 county facility, a Department of Corrections probation and  
 152 restitution center, a probation program drug punishment  
 153 treatment community, or a community residential or  
 154 nonresidential facility, excluding a community correctional  
 155 center as defined in s. 944.026, which is owned and operated by  
 156 any qualified public or private entity providing such services.  
 157 Before admission to such a facility, the court shall obtain an  
 158 individual assessment and recommendations on the appropriate  
 159 treatment needs, which shall be considered by the court in  
 160 ordering such placements. Placement in such a facility, except  
 161 for a county residential probation facility, may not exceed 364  
 162 days. Placement in a county residential probation facility may  
 163 not exceed 3 years. Early termination of placement may be

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164 recommended to the court, when appropriate, by the center  
165 supervisor, the supervising probation officer, or the probation  
166 program manager.

167 7. Sentence the offender pursuant to s. 922.051 to  
168 imprisonment in a county jail when a statute directs  
169 imprisonment in a state prison, if the offender's cumulative  
170 sentence, whether from the same circuit or from separate  
171 circuits, is not more than 364 days.

172 8. Sentence the offender who is to be punished by  
173 imprisonment in a county jail to a jail in another county if  
174 there is no jail within the county suitable for such prisoner  
175 pursuant to s. 950.01.

176 9. Require the offender to participate in a work-release  
177 or educational or technical training program pursuant to s.  
178 951.24 while serving a sentence in a county jail, if such a  
179 program is available.

180 10. Require the offender to perform a specified public  
181 service pursuant to s. 775.091.

182 11. Require the offender who violates chapter 893 or  
183 violates any law while under the influence of a controlled  
184 substance or alcohol to participate in a substance abuse  
185 program.

186 12.a. Require the offender who violates any criminal  
187 provision of chapter 893 to pay an additional assessment in an  
188 amount up to the amount of any fine imposed, pursuant to ss.  
189 938.21 and 938.23.

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190           b. Require the offender who violates any provision of s.  
191 893.13 to pay an additional assessment in an amount of \$100,  
192 pursuant to ss. 938.25 and 943.361.

193           13. Impose a split sentence whereby the offender is to be  
194 placed in a county jail or county work camp upon the completion  
195 of any specified term of community supervision.

196           14. Impose split probation whereby upon satisfactory  
197 completion of half the term of probation, the Department of  
198 Corrections may place the offender on administrative probation  
199 pursuant to s. 948.01 for the remainder of the term of  
200 supervision.

201           15. Require residence in a state probation and restitution  
202 center or private drug treatment program for offenders on  
203 community control or offenders who have violated conditions of  
204 probation.

205           16. Impose any other sanction which is provided within the  
206 community and approved as an intermediate sanction by the county  
207 public safety coordinating council as described in s. 951.26.

208           17. Impose, as a condition of community control,  
209 probation, or probation following incarceration, a requirement  
210 that an offender who has not obtained a high school diploma or  
211 high school equivalency diploma or who lacks basic or functional  
212 literacy skills, upon acceptance by an adult education program,  
213 make a good faith effort toward completion of such basic or  
214 functional literacy skills or high school equivalency diploma,  
215 as defined in s. 1003.435, in accordance with the assessed adult  
216 general education needs of the individual offender.



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217           (2) Unless agreed to by the state attorney as part of a  
218 negotiated plea or sentence, an offender may not be placed on ~~in~~  
219 community control or probation if:

220           (a) Convicted of or adjudication is withheld for a  
221 disqualifying forcible felony as defined in s. 776.08; and

222           (b) Previously convicted of or adjudication was withheld  
223 for a disqualifying forcible felony as defined in s. 776.08.

224  
225 Nothing in this subsection prohibits placement of certain  
226 inmates on community control pursuant to s. 947.1747. For  
227 purposes of this subsection, the term "disqualifying a forcible  
228 felony" means a forcible felony defined in s. 776.08, excluding  
229 burglary under s. 810.02(4) and aggravated assault committed  
230 without a deadly weapon under s. 784.021(1)(b) does not include  
231 manslaughter or burglary.

232           Section 3. Section 903.0473, Florida Statutes, is created  
233 to read:

234           903.0473 Probation appearance bond.--As a condition of  
235 probation, community control, or any other court-ordered  
236 community supervision authorized under chapter 948, the court  
237 may order the posting of a bond to secure the appearance of the  
238 defendant at any subsequent court proceeding. The appearance  
239 bond shall be filed by the bail agent with the sheriff who shall  
240 provide a copy to the clerk of court. Upon 72 hours' notice by  
241 the clerk, the bail agent shall produce to the court the person  
242 on probation, community control, or other court-ordered  
243 community supervision to the court. The bail agent shall  
244 surrender to the sheriff the person on probation, community

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245 control or other court-ordered community supervision upon notice  
 246 by the probation officer that the person has violated the terms  
 247 of probation, community control, or other court-ordered  
 248 community supervision. If the bail agent fails to produce the  
 249 defendant to the court at the time and place properly noticed,  
 250 the bond shall be estreated and forfeited according to the  
 251 procedures set forth in this chapter and chapter 643. The  
 252 defendant's failure to appear shall be the sole grounds for  
 253 forfeiture and estreature of the appearance bond. Where not  
 254 inconsistent with this subsection, this chapter and chapter 643  
 255 shall regulate the relationship between the bail agent and  
 256 probationer.

257 Section 4. Subsection (2) of section 947.22, Florida  
 258 Statutes, is amended to read:

259 947.22 Authority to arrest parole violators with or  
 260 without warrant.--

261 (2) Any parole and probation officer, when she or he has  
 262 reasonable ground to believe that a parolee, control releasee,  
 263 or conditional releasee has violated the terms and conditions of  
 264 her or his parole, control release, or conditional release in a  
 265 material respect, has the right to arrest, or to request any law  
 266 enforcement officer to arrest, the releasee or parolee without  
 267 warrant and bring her or him forthwith before one or more  
 268 commissioners or a duly authorized representative of the Parole  
 269 Commission or Control Release Authority; and proceedings shall  
 270 thereupon be had as provided herein when a warrant has been  
 271 issued by a member of the commission or authority or a duly  
 272 authorized representative of the commission or authority. Upon

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273 request, local law enforcement officers may assist the probation  
 274 officer in making a warrantless arrest of a releasee or parolee,  
 275 taking a releasee or parolee into custody, and transporting a  
 276 releasee or parolee to the county jail.

277 Section 5. Subsections (4) and (10) of section 948.01,  
 278 Florida Statutes, are amended, and subsection (9), paragraph (b)  
 279 of subsection (11), and paragraph (b) of subsection (13) of said  
 280 section are reenacted for the purpose of incorporating the  
 281 amendment to s. 948.06, Florida Statutes, in references thereto,  
 282 to read:

283 948.01 When court may place defendant on probation or into  
 284 community control.--

285 (4) The sanctions imposed by order of the court shall be  
 286 commensurate with the seriousness of the offense. When community  
 287 control or a program of public service is ordered by the court,  
 288 the duration of community control supervision or public service  
 289 may not be longer than the sentence that could have been imposed  
 290 if the offender had been committed for the offense ~~or a period~~  
 291 ~~not to exceed 2 years, whichever is less.~~ When restitution or  
 292 public service is ordered by the court, the amount of  
 293 restitution or public service may not be greater than an amount  
 294 which the offender could reasonably be expected to pay or  
 295 perform.

296 (9) Procedures governing violations of community control  
 297 shall be the same as those described in s. 948.06 with respect  
 298 to probation.

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299           (10) Unless agreed to by the state attorney as part of a  
300 negotiated plea or sentence, an offender may not be placed on ~~in~~  
301 community control or probation if:

302           (a) Convicted of or has adjudication withheld for a  
303 disqualifying forcible felony ~~as defined in s. 776.08,~~ and

304           (b) Previously convicted of or had adjudication withheld  
305 for a disqualifying forcible felony ~~as defined in s. 776.08.~~

306  
307 Nothing in this subsection prohibits placement of certain  
308 inmates on community control pursuant to s. 947.1747. For the  
309 purposes of this subsection, a "disqualifying forcible felony"  
310 means a forcible felony defined in s. 776.08, excluding burglary  
311 under s. 810.02(4) and aggravated assault committed without a  
312 deadly weapon under s. 784.021(1)(b) ~~does not include~~  
313 ~~manslaughter or burglary.~~

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

318           (b) If the offender does not meet the terms and conditions  
319 of probation or community control, the court may revoke, modify,  
320 or continue the probation or community control as provided in s.  
321 948.06. If the probation or community control is revoked, the  
322 court may impose any sentence that it could have imposed at the  
323 time the offender was placed on probation or community control.  
324 The court may not provide credit for time served for any portion  
325 of a probation or community control term toward a subsequent  
326 term of probation or community control. However, the court may

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327 | not impose a subsequent term of probation or community control  
 328 | which, when combined with any amount of time served on preceding  
 329 | terms of probation or community control for offenses pending  
 330 | before the court for sentencing, would exceed the maximum  
 331 | penalty allowable as provided in s. 775.082. Such term of  
 332 | incarceration shall be served under applicable law or county  
 333 | ordinance governing service of sentences in state or county  
 334 | jurisdiction. This paragraph does not prohibit any other  
 335 | sanction provided by law.

336 |       (13) If it appears to the court upon a hearing that the  
 337 | defendant is a chronic substance abuser whose criminal conduct  
 338 | is a violation of s. 893.13(2)(a) or (6)(a), the court may  
 339 | either adjudge the defendant guilty or stay and withhold the  
 340 | adjudication of guilt; and, in either case, it may stay and  
 341 | withhold the imposition of sentence and place the defendant on  
 342 | drug offender probation.

343 |       (b) Offenders placed on drug offender probation are  
 344 | subject to revocation of probation as provided in s. 948.06.

345 |       Section 6. Effective July 1, 2004, subsection (1) of  
 346 | section 948.03, Florida Statutes, as amended by section 136 of  
 347 | chapter 2003-402, Laws of Florida, is amended to read:

348 |       948.03 Terms and conditions of probation or community  
 349 | control.--

350 |       (1) The court shall determine the terms and conditions of  
 351 | probation or community control. Conditions specified in  
 352 | paragraphs (a)-(o) ~~(a)-(m)~~ do not require oral pronouncement at  
 353 | the time of sentencing and may be considered standard conditions  
 354 | of probation. Conditions specified in paragraphs (a)-(o) ~~(a)-(m)~~

355 and (2)(a) do not require oral pronouncement at sentencing and  
 356 may be considered standard conditions of community control.  
 357 These conditions may include among them the following, that the  
 358 probationer or offender in community control shall:

359 (a) Report to the probation officer ~~and parole supervisors~~  
 360 as directed. The offender shall provide a full, truthful, and  
 361 complete oral or written report each month. The report must  
 362 include, but need not be limited to, the offender's employment  
 363 status, monthly earnings, and financial ability. At the  
 364 discretion of the department, the reporting requirement may  
 365 include electronic monitoring.

366 (b) Permit such officers ~~supervisors~~ to visit him or her  
 367 at his or her home or elsewhere.

368 (c) Work faithfully at suitable employment insofar as may  
 369 be possible.

370 (d) Remain within a specified place.

371 (e) Make reparation or restitution to the aggrieved party  
 372 for the damage or loss caused by his or her offense in an amount  
 373 to be determined by the court. The court shall make such  
 374 reparation or restitution a condition of probation, unless it  
 375 determines that clear and compelling reasons exist to the  
 376 contrary. If the court does not order restitution, or orders  
 377 restitution of only a portion of the damages, as provided in s.  
 378 775.089, it shall state on the record in detail the reasons  
 379 therefor.

380 (f) Effective July 1, 1994, and applicable for offenses  
 381 committed on or after that date, make payment of the debt due  
 382 and owing to a county or municipal detention facility under s.

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383 951.032 for medical care, treatment, hospitalization, or  
 384 transportation received by the felony probationer while in that  
 385 detention facility. The court, in determining whether to order  
 386 such repayment and the amount of such repayment, shall consider  
 387 the amount of the debt, whether there was any fault of the  
 388 institution for the medical expenses incurred, the financial  
 389 resources of the felony probationer, the present and potential  
 390 future financial needs and earning ability of the probationer,  
 391 and dependents, and other appropriate factors.

392 (g) Support his or her legal dependents to the best of his  
 393 or her ability.

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

397 (i) Pay any application fee assessed under s. 27.52(2)(a)  
 398 and attorney's fees and costs assessed under s. 938.29, subject  
 399 to modification based on change of circumstances.

400 (j) Not associate with persons engaged in criminal  
 401 activities.

402 (k)1. Submit to random testing as directed by the  
 403 correctional probation officer or the professional staff of the  
 404 treatment center where he or she is receiving treatment to  
 405 determine the presence or use of alcohol or controlled  
 406 substances.

407 2. If the offense was a controlled substance violation and  
 408 the period of probation immediately follows a period of  
 409 incarceration in the state correction system or if the offense  
 410 was a controlled substance violation and the offender has

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411 previously served a term of imprisonment for an offense  
 412 involving a controlled substance, the conditions shall include a  
 413 requirement that the offender submit, no less than once every  
 414 calendar month, to random substance abuse testing ~~intermittently~~  
 415 throughout the term of supervision, upon the direction of the  
 416 correctional probation officer as defined in s. 943.10(3).

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

420 (m) Be prohibited from using intoxicants to excess or  
 421 using or possessing a controlled substance or drug ~~any drugs or~~  
 422 ~~narcotics~~ unless prescribed by a physician. The probationer or  
 423 community controllee shall not knowingly visit places where  
 424 intoxicants, drugs, or other dangerous substances are unlawfully  
 425 sold, dispensed, or used.

426 (n) Remain on supervision without violating the law.

427 (o) For an offense involving a victim, not have contact  
 428 with the victim unless authorized to do so by the court. If the  
 429 court authorizes the defendant to have contact with the victim  
 430 over the objection of the victim or the state attorney, the  
 431 court shall state on the record the reasons therefor.

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

436 (q)~~(e)~~ Pay not more than \$1 per month during the term of  
 437 probation or community control to a nonprofit organization



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438 established for the sole purpose of supplementing the  
439 rehabilitative efforts of the Department of Corrections.

440 Section 7. Section 948.032, Florida Statutes, is amended  
441 to read:

442 948.032 Condition of probation; restitution.--If a  
443 defendant is placed on probation, any restitution ordered under  
444 s. 775.089 shall be a condition of the probation. The court may  
445 revoke probation if the defendant fails to comply with the  
446 order. In determining whether to revoke probation, the court  
447 shall consider the defendant's employment status, earning  
448 ability, and financial resources; the willfulness of the  
449 defendant's failure to pay; and any other special circumstances  
450 that may have a bearing on the defendant's ability to pay. As  
451 provided in s. 948.06(5), it is the responsibility of the  
452 defendant to prove his or her inability to pay court-ordered  
453 restitution.

454 Section 8. Effective July 1, 2004, and applicable to  
455 offenses committed on or after that date, section 948.06,  
456 Florida Statutes, is amended to read:

457 948.06 Violation of probation or community control;  
458 revocation; modification; continuance; failure to pay  
459 restitution or cost of supervision.--

460 (1)(a) Whenever within the period of probation or  
461 community control there are reasonable grounds to believe that a  
462 probationer or offender on ~~in~~ community control has violated his  
463 or her probation or community control in a material respect, any  
464 law enforcement officer who is aware of the probationary or  
465 community control status of the probationer or offender in

466 community control or any parole or probation supervisor may  
 467 arrest or request any county or municipal law enforcement  
 468 officer to arrest such probationer or offender without warrant  
 469 wherever found and forthwith return him or her to the court  
 470 granting such probation or community control. Upon request,  
 471 local law enforcement officers may assist the probation officer  
 472 in making a warrantless arrest of a probationer or community  
 473 controllee, taking a probationer or community controllee into  
 474 custody, and transporting a probationer or community controllee  
 475 to the county jail. Any committing magistrate may issue a  
 476 warrant, upon the facts being made known to him or her by  
 477 affidavit of one having knowledge of such facts, for the arrest  
 478 of the probationer or offender, returnable forthwith before the  
 479 court granting such probation or community control. Any parole  
 480 or probation supervisor, any officer authorized to serve  
 481 criminal process, or any peace officer of this state is  
 482 authorized to serve and execute such warrant.

483 (b) Upon the filing of an affidavit alleging a violation  
 484 of probation or community control and following issuance of a  
 485 warrant under s. 901.02 or upon warrantless arrest, the  
 486 probationary period is tolled until the court enters a ruling on  
 487 the violation. Notwithstanding the tolling of probation as  
 488 provided in this subsection, the court shall retain jurisdiction  
 489 over the offender for any violation of the conditions of  
 490 probation or community control that is alleged to have occurred  
 491 during the tolling period. The probation officer is permitted to  
 492 continue to supervise any offender who remains available to the  
 493 officer for supervision until the supervision expires pursuant

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494 to the order of probation or community control or until the  
495 court revokes or terminates the probation or community control,  
496 whichever comes first.

497 (2) The court, upon the probationer or offender being  
498 brought before it, shall advise him or her of such charge of  
499 violation. ~~and,~~

500 (a) If such violation of probation or community control  
501 ~~charge~~ is admitted to be true, the court may forthwith revoke,  
502 modify, or continue the probation or community control or place  
503 the probationer into a community control program. If probation  
504 or community control is revoked, the court shall adjudge the  
505 probationer or offender guilty of the offense charged and proven  
506 or admitted, unless he or she has previously been adjudged  
507 guilty, and impose any sentence which it might have originally  
508 imposed before placing the probationer on probation or the  
509 offender into community control.

510 (b) If such violation of probation or community control is  
511 not admitted by the probationer or offender, the court may  
512 commit him or her or release him or her with or without bail to  
513 await further hearing, except that a defendant who is on  
514 probation or community control for a high-risk felony, as  
515 defined in subsection (10), must be held without bail for an  
516 alleged violation that involves a nonmonetary condition of  
517 supervision ~~or it may dismiss the charge of probation or~~  
518 ~~community control violation. If such charge is not at that time~~  
519 ~~admitted by the probationer or offender and if it is not~~  
520 ~~dismissed,~~ The court, as soon as ~~may be~~ practicable, shall give  
521 the probationer or offender an opportunity to be fully heard on

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522 his or her behalf in person or by counsel. The state shall be  
523 represented by the state attorney at such hearing and shall be  
524 given an opportunity to be heard and to present evidence. After  
525 such hearing, the court may revoke, modify, or continue the  
526 probation or community control or place the probationer into  
527 community control. If such probation or community control is  
528 revoked, the court shall adjudge the probationer or offender  
529 guilty of the offense charged and proven or admitted, unless he  
530 or she has previously been adjudged guilty, and impose any  
531 sentence which it might have originally imposed before placing  
532 the probationer or offender on probation or into community  
533 control.

534 (c) Notwithstanding s. 775.082, when a period of probation  
535 or community control has been tolled, upon revocation or  
536 modification of the probation or community control, the court  
537 may impose a sanction with a term that when combined with the  
538 amount of supervision served and tolled, exceeds the term  
539 permissible pursuant to s. 775.082 for a term up to the amount  
540 of the tolled period supervision.

541 (d) If the court dismisses an affidavit alleging a  
542 violation of probation or community control, the offender's  
543 probation or community control shall continue as previously  
544 imposed, and the offender shall receive credit for all tolled  
545 time against his or her term of probation or community control.

546 (e) For each case in which the offender admits to  
547 committing a violation or is found to have committed a  
548 violation, the department shall provide the court with a  
549 recommendation as to the appropriate disposition. The report

550 must include, but need not be limited to, a summary of the  
 551 offender's prior supervision history, including the offender's  
 552 prior participation in treatment, educational, and vocational  
 553 programs, and any other actions or circumstances of the offender  
 554 which are relevant. The court may specify whether the report  
 555 must be oral or written and may waive the requirement for a  
 556 report on a case-by-case basis. This paragraph does not prohibit  
 557 the department from making any other report or recommendation  
 558 that is provided for by law or requested by the court or the  
 559 state attorney.

560 (3)(2)(a) When any state or local law enforcement agency  
 561 investigates or arrests a person for committing, or attempting,  
 562 soliciting, or conspiring to commit, a violation of s. 787.025,  
 563 chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s.  
 564 847.0135, or s. 847.0145, the law enforcement agency shall  
 565 contact the Department of Corrections to verify whether the  
 566 person under investigation or under arrest is on probation,  
 567 community control, parole, conditional release, or control  
 568 release.

569 (b) If the law enforcement agency finds that the person  
 570 under investigation or under arrest is on probation, community  
 571 control, parole, conditional release, or control release, the  
 572 law enforcement agency shall immediately notify the person's  
 573 probation officer or release supervisor of the investigation or  
 574 the arrest.

575 (4)(3) When the court imposes a subsequent term of  
 576 supervision following a revocation of probation or community  
 577 control, it shall not provide credit for time served while on

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578 | probation or community control toward any subsequent term of  
 579 | probation or community control. However, the court may not  
 580 | impose a subsequent term of probation or community control  
 581 | which, when combined with any amount of time served on preceding  
 582 | terms of probation or community control for offenses before the  
 583 | court for sentencing, would exceed the maximum penalty allowable  
 584 | as provided by s. 775.082. No part of the time that the  
 585 | defendant is on probation or in community control shall be  
 586 | considered as any part of the time that he or she shall be  
 587 | sentenced to serve.

588 |        ~~(5)~~~~(4)~~ Notwithstanding any other provision of this  
 589 | section, a probationer or an offender in community control who  
 590 | is arrested for violating his or her probation or community  
 591 | control in a material respect may be taken before the court in  
 592 | the county or circuit in which the probationer or offender was  
 593 | arrested. That court shall advise him or her of such charge of a  
 594 | violation and, if such charge is admitted, shall cause him or  
 595 | her to be brought before the court which granted the probation  
 596 | or community control.

597 |        (a) If such violation is not admitted by the probationer  
 598 | or offender, the court may commit him or her or release him or  
 599 | her with or without bail to await further hearing. The court, as  
 600 | soon as is practicable, shall give the probationer or offender  
 601 | an opportunity to be fully heard on his or her behalf in person  
 602 | or by counsel.

603 |        (b) After such hearing, the court shall make findings of  
 604 | fact and forward the findings to the court which granted the  
 605 | probation or community control and to the probationer or

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606 offender or his or her attorney. The findings of fact by the  
 607 hearing court are binding on the court which granted the  
 608 probation or community control. Upon the probationer or offender  
 609 being brought before it, the court which granted the probation  
 610 or community control may revoke, modify, or continue the  
 611 probation or community control or may place the probationer into  
 612 community control as provided in this section.

613 (6)(5) Whenever the department submits a violation report  
 614 to the court involving allegations of failure to pay court-  
 615 ordered obligations, the department shall include a statement by  
 616 the probationer or offender on community control concerning his  
 617 or her ability to pay such obligations. In any hearing in which  
 618 the failure of a probationer or offender in community control to  
 619 pay restitution or the cost of supervision as provided in s.  
 620 948.09, as directed, is established by the state, if the  
 621 probationer or offender asserts his or her inability to pay  
 622 restitution or the cost of supervision, it is incumbent upon the  
 623 probationer or offender to prove by clear and convincing  
 624 evidence that he or she does not have the present resources  
 625 available to pay restitution or the cost of supervision despite  
 626 sufficient bona fide efforts legally to acquire the resources to  
 627 do so. If the probationer or offender cannot pay restitution or  
 628 the cost of supervision despite sufficient bona fide efforts,  
 629 the court shall consider alternate measures of punishment other  
 630 than imprisonment. Only if alternate measures are not adequate  
 631 to meet the state's interests in punishment and deterrence may  
 632 the court imprison a probationer or offender in community

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633 control who has demonstrated sufficient bona fide efforts to pay  
634 restitution or the cost of supervision.

635 ~~(7)(6)~~ Any parolee in a community control program who has  
636 allegedly violated the terms and conditions of such placement is  
637 subject to the provisions of ss. 947.22 and 947.23.

638 ~~(8)(7)~~ Any provision of law to the contrary  
639 notwithstanding, whenever probation, community control, or  
640 control release, including the probationary, community control  
641 portion of a split sentence, is violated and the probation or  
642 community control is revoked, the offender, by reason of his or  
643 her misconduct, shall be deemed to have forfeited all gain-time  
644 or commutation of time for good conduct, as provided by law,  
645 earned up to the date of his or her release on probation,  
646 community control, or control release. This subsection does not  
647 deprive the prisoner of his or her right to gain-time or  
648 commutation of time for good conduct, as provided by law, from  
649 the date on which the prisoner is returned to prison. However,  
650 if a prisoner is sentenced to incarceration following  
651 termination from a drug punishment program imposed as a  
652 condition of probation, the sentence may include incarceration  
653 without the possibility of gain-time or early release for the  
654 period of time remaining in his or her treatment program  
655 placement term.

656 (9)(a) The court shall conduct a danger to the community  
657 hearing as provided in paragraph (b) to determine whether the  
658 defendant poses a risk of physical harm to persons if:

659 1. The defendant is on probation or community control for  
660 a high-risk felony; or



661        2. The defendant is on probation or community control for  
 662 any felony and has been adjudged to be in violation of  
 663 nonmonetary conditions of probation or community control for the  
 664 current felony and has been previously convicted of, or had  
 665 adjudication of guilt withheld for, a high-risk felony, a  
 666 forcible felony as defined in s. 776.08, or any violation of s.  
 667 800.04.

668        (b) In a danger to the community hearing, the court may  
 669 conclude that a defendant poses a risk of physical harm to  
 670 persons based on factors, including, but not limited to:

671            1. The defendant's sentence for the felony included court-  
 672 ordered treatment for abuse of illegal controlled substances and  
 673 the present violation was committed for the purpose of acquiring  
 674 controlled substances.

675            2. The defendant has two prior nonmonetary violations of  
 676 the current supervision and has:

677            a. Committed a new felony offense, excluding felony  
 678 violations of chapters 815, 817, 818, 823, 831, 832, 837, 838,  
 679 839, 849, and 896; or

680            b. Committed a new misdemeanor offense involving the use  
 681 or threatened use of force or violence.

682            3. The defendant has three prior nonmonetary violations of  
 683 the current supervision.

684            4. The defendant is in violation of a condition of  
 685 supervision involving contacting a victim against the victim's  
 686 will or involving contacting a minor in violation of s.  
 687 948.03(5), if the felony was committed against a minor.  
 688

689 At the conclusion of the danger to the community hearing, the  
 690 court shall state its finding as to whether the defendant poses  
 691 a risk of physical harm to persons. A finding that the defendant  
 692 poses a risk of physical harm to persons must be established by  
 693 a preponderance of the evidence. If the court finds that the  
 694 defendant poses a risk of physical harm to persons, the court  
 695 must impose a sentence that includes a period of incarceration  
 696 in state prison within the sentencing range provided under the  
 697 Criminal Punishment Code.

698 (10) For purposes of this chapter, the term "high-risk  
 699 felony" means lewd or lascivious battery as defined in s.  
 700 800.04, an act of terrorism as defined in s. 775.30, or any  
 701 forcible felony defined in s. 776.08, excluding burglary under  
 702 s. 810.02(4) and aggravated assault committed without a deadly  
 703 weapon under s. 784.021(1)(b).

704 (11) The state attorney shall represent the state in all  
 705 hearings described in this chapter regarding persons on  
 706 probation or community control. The state shall be given the  
 707 opportunity to be heard and to present evidence to establish the  
 708 defendant's violation and the facts or circumstances which  
 709 support a finding that a defendant poses a threat of physical  
 710 harm to persons.

711 Section 9. Section 948.062, Florida Statutes, is created  
 712 to read:

713 948.062 Reviewing and reporting serious offenses committed  
 714 by offenders placed on community supervision.--

715 (1) The department's inspector general, as designated  
 716 pursuant to s. 944.31, shall review the circumstances related to

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717 offenders placed on community supervision who have been arrested  
718 while on supervision for the following serious offenses:

719 (a) Any murder as provided in s. 782.04;

720 (b) Any sexual battery as provided in s. 794.011 or s.  
721 794.023;

722 (c) Any sexual performance by a child as provided in s.  
723 827.071;

724 (d) Any kidnapping, false imprisonment, or luring of a  
725 child as provided in s. 787.01, s. 787.02, or s. 787.025;

726 (e) Any lewd and lascivious battery or lewd and lascivious  
727 molestation as provided in s. 800.04(4) or s. 800.04(5);

728 (f) Any aggravated child abuse as provided in s.  
729 827.03(2);

730 (g) Any robbery with a firearm or other deadly weapon,  
731 home invasion robbery, or carjacking as provided in s.  
732 812.13(2)(a), s. 812.135, or s. 812.133;

733 (h) Any aggravated stalking as provided in s. 784.048(3),  
734 s. 784.048(4), or s. 784.048(5);

735 (i) Any forcible felony as provided in s. 776.08 committed  
736 by any person under community supervision designated as a sexual  
737 predator; or

738 (j) Any DUI manslaughter as provided in s. 316.193(3)(c),  
739 or vehicular or vessel homicide as provided in s. 782.071 or s.  
740 782.072, committed by any person under community supervision for  
741 an offense involving death or injury resulting from a driving  
742 incident.

743

744 | The inspector general's review shall document whether the  
 745 | supervision of the offender met enumerated rules, policies, and  
 746 | procedures and whether supervision practices were followed.

747 |       (2) On an annual basis, the Department of Corrections  
 748 | shall provide these reviews to the Office of Program Policy  
 749 | Analysis and Government Accountability. The Office of Program  
 750 | Policy Analysis and Government Accountability shall annually  
 751 | analyze these reviews and provide a written report to the  
 752 | President of the Senate and the Speaker of the House of  
 753 | Representatives. The report must include, at a minimum, any  
 754 | identified systemic deficiencies in managing high-risk offenders  
 755 | on community supervision and the judicial disposition of the  
 756 | cases involving such offenders, any patterns of noncompliance by  
 757 | correctional probation officers and any inconsistent or  
 758 | inefficient judicial case processing for offenders who have  
 759 | violated community supervision, and recommendations for  
 760 | improving the community supervision program.

761 |       Section 10. Subsections (7) and (9) of section 948.10,  
 762 | Florida Statutes, are amended to read:

763 |       948.10 Community control programs.--

764 |       (7) If an offender is placed on ~~sentenced to~~ community  
 765 | control or probation by the court and the offender is ineligible  
 766 | ~~for to be placed on~~ community control or probation as provided  
 767 | in s. 948.01(10), the department shall:

768 |       (a) Review and verify whether an ineligible offender was  
 769 | placed on community control or probation.

770 |       (b) Within 30 days after receipt of the order, notify the  
 771 | sentencing judge, the state attorney, and the Attorney General

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772 that the offender was ineligible for placement on community  
773 control or probation.

774 (c) Provide a quarterly report to the chief judge and the  
775 state attorney of each circuit citing the number of ineligible  
776 offenders placed on community control or probation within that  
777 circuit.

778 (d) Provide an annual report to the Governor, the  
779 President of the Senate, the Speaker of the House of  
780 Representatives, and the Chief Justice of the Supreme Court on  
781 the placement of ineligible offenders on community control or  
782 probation in order to assist in preparing judicial education  
783 programs or for any other purpose.

784 (9) In its annual report to the Governor, the President of  
785 the Senate, and the Speaker of the House of Representatives  
786 under s. 20.315(5), the department shall include a detailed  
787 analysis of the community control and probation programs ~~program~~  
788 and the department's specific efforts to protect the public from  
789 offenders placed on community control or probation. The analysis  
790 must include, but need not be limited to, specific information  
791 on the department's ability to meet minimum officer-to-offender  
792 contact standards, the number and types of crimes committed by  
793 offenders on community control and probation, and the level of  
794 community supervision provided.

795 Section 11. Section 958.14, Florida Statutes, is amended  
796 to read:

797 958.14 Violation of probation or community control  
798 program.--A violation or alleged violation of probation or the  
799 terms of a community control program shall subject the youthful

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800 offender to the provisions of s. 948.06(1) and (2). However, no  
 801 youthful offender shall be committed to the custody of the  
 802 department for a substantive violation for a period longer than  
 803 the maximum sentence for the offense for which he or she was  
 804 found guilty, with credit for time served while incarcerated, or  
 805 for a technical or nonsubstantive violation for a period longer  
 806 than 6 years or for a period longer than the maximum sentence  
 807 for the offense for which he or she was found guilty, whichever  
 808 is less, with credit for time served while incarcerated.

809 Section 12. Section 921.0017, Florida Statutes, is amended  
 810 to read:

811 921.0017 Credit upon recommitment of offender serving  
 812 split sentence.--Effective for offenses committed on or after  
 813 January 1, 1994, if an offender's probation or community control  
 814 is revoked and the offender is serving a split sentence pursuant  
 815 to s. 948.01, upon recommitment to the Department of  
 816 Corrections, the court shall order credit for time served in  
 817 state prison or county jail only, without considering any type  
 818 of gain-time earned before release to supervision, or any type  
 819 of sentence reduction granted to avoid prison overcrowding,  
 820 including, but not limited to, any sentence reduction resulting  
 821 from administrative gain-time, provisional credits, or control  
 822 release. The court shall determine the amount of jail-time  
 823 credit to be awarded for time served between the date of arrest  
 824 as a violator and the date of recommitment, and shall direct the  
 825 Department of Corrections to compute and apply credit for all  
 826 other time served previously on the prior sentence for the  
 827 offense for which the offender is being recommitted. This

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828 section does not affect or limit the department's authority to  
829 forfeit gain-time under ss. 944.28(1) and 948.06(8)~~(7)~~.

830 Section 13. For the purpose of incorporating the amendment  
831 to section 901.15, Florida Statutes, in a reference thereto,  
832 subsection (2) of section 570.073, Florida Statutes, is  
833 reenacted to read:

834 570.073 Department of Agriculture and Consumer Services,  
835 law enforcement officers.--

836 (2) Each law enforcement officer shall meet the  
837 qualifications of law enforcement officers under s. 943.13 and  
838 shall be certified as a law enforcement officer by the  
839 Department of Law Enforcement under the provisions of chapter  
840 943. Upon certification, each law enforcement officer is subject  
841 to and shall have the same arrest and other authority provided  
842 for law enforcement officers generally in chapter 901 and shall  
843 have statewide jurisdiction. Each officer shall also have arrest  
844 authority as provided for state law enforcement officers in s.  
845 901.15. Such officers have full law enforcement powers granted  
846 to other peace officers of this state, including the authority  
847 to make arrests, carry firearms, serve court process, and seize  
848 contraband and the proceeds of illegal activities.

849 Section 14. For the purpose of incorporating the amendment  
850 to section 921.187, Florida Statutes, in a reference thereto,  
851 subsection (5) of section 372.921, Florida Statutes, is  
852 reenacted to read:

853 372.921 Exhibition or sale of wildlife.--

854 (5) In instances where wildlife is seized or taken into  
855 custody by the commission, said owner or possessor of such

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856 | wildlife shall be responsible for payment of all expenses  
 857 | relative to the capture, transport, boarding, veterinary care,  
 858 | or other costs associated with or incurred due to seizure or  
 859 | custody of wildlife. Such expenses shall be paid by said owner  
 860 | or possessor upon any conviction or finding of guilt of a  
 861 | criminal or noncriminal violation, regardless of adjudication or  
 862 | plea entered, of any provision of chapter 828 or this chapter,  
 863 | or rule of the commission or if such violation is disposed of  
 864 | under s. 921.187. Failure to pay such expense may be grounds for  
 865 | revocation or denial of permits to such individual to possess  
 866 | wildlife.

867 |       Section 15. For the purpose of incorporating the amendment  
 868 | to section 921.187, Florida Statutes, in a reference thereto,  
 869 | subsection (4) of section 372.922, Florida Statutes, is  
 870 | reenacted to read:

871 |       372.922 Personal possession of wildlife.--

872 |       (4) In instances where wildlife is seized or taken into  
 873 | custody by the commission, said owner or possessor of such  
 874 | wildlife shall be responsible for payment of all expenses  
 875 | relative to the capture, transport, boarding, veterinary care,  
 876 | or other costs associated with or incurred due to seizure or  
 877 | custody of wildlife. Such expenses shall be paid by said owner  
 878 | or possessor upon any conviction or finding of guilt of a  
 879 | criminal or noncriminal violation, regardless of adjudication or  
 880 | plea entered, of any provision of chapter 828 or this chapter,  
 881 | or rule of the commission or if such violation is disposed of  
 882 | under s. 921.187. Failure to pay such expense may be grounds for



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883 | revocation or denial of permits to such individual to possess  
884 | wildlife.

885 |       Section 16. For the purpose of incorporating the amendment  
886 | to section 948.03, Florida Statutes, in a reference thereto,  
887 | paragraph (a) of subsection (1) of section 775.089, Florida  
888 | Statutes, is reenacted to read:

889 |       775.089 Restitution.--

890 |       (1)(a) In addition to any punishment, the court shall  
891 | order the defendant to make restitution to the victim for:

892 |       1. Damage or loss caused directly or indirectly by the  
893 | defendant's offense; and

894 |       2. Damage or loss related to the defendant's criminal  
895 | episode,

896 |  
897 | unless it finds clear and compelling reasons not to order such  
898 | restitution. Restitution may be monetary or nonmonetary  
899 | restitution. The court shall make the payment of restitution a  
900 | condition of probation in accordance with s. 948.03. An order  
901 | requiring the defendant to make restitution to a victim does not  
902 | remove or diminish the requirement that the court order payment  
903 | to the Crimes Compensation Trust Fund pursuant to chapter 960.  
904 | Payment of an award by the Crimes Compensation Trust Fund shall  
905 | create an order of restitution to the Crimes Compensation Trust  
906 | Fund, unless specifically waived in accordance with subparagraph  
907 | (b)1.

908 |       Section 17. For the purpose of incorporating the amendment  
909 | to section 948.03, Florida Statutes, in a reference thereto,

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910 subsection (5) of section 948.001, Florida Statutes, is  
911 reenacted to read:

912 948.001 Definitions.--As used in this chapter, the term:

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

916 Section 18. For the purpose of incorporating the amendment  
917 to section 948.03, Florida Statutes, in a reference thereto,  
918 subsection (4) of section 958.03, Florida Statutes, is reenacted  
919 to read:

920 958.03 Definitions.--As used in this act:

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

924 Section 19. For the purpose of incorporating the amendment  
925 to section 948.03, Florida Statutes, in references thereto,  
926 subsection (6) of section 947.23, Florida Statutes, is reenacted  
927 to read:

928 947.23 Action of commission upon arrest of parolee.--

929 (6) Within a reasonable time after the hearing, the  
930 commissioner, commissioners, or duly authorized representative  
931 of the commission who conducted the hearing shall make findings  
932 of fact in regard to the alleged parole violation.

933 (a) If the hearing was conducted by three or more  
934 commissioners, a majority of them shall enter an order  
935 determining whether the charges of parole violation have been  
936 sustained, based on the findings of fact made by them. By such  
937 order they shall revoke the parole and return the parolee to

938 | prison to serve the sentence theretofore imposed upon her or  
 939 | him, reinstate the original order of parole, order the placement  
 940 | of the parolee into a community control program as set forth in  
 941 | s. 948.03, or enter such other order as is proper.

942 |       (b) If the hearing was conducted by one or two  
 943 | commissioners or a duly authorized representative of the  
 944 | commission, at least two commissioners shall enter an order  
 945 | determining whether or not the charges of parole violation have  
 946 | been sustained, based on the findings of fact made by the  
 947 | commissioner, commissioners, or duly authorized representative  
 948 | of the commission. The commissioners, by such order, shall  
 949 | revoke the parole and return the parolee to prison to serve the  
 950 | sentence theretofore imposed upon her or him, reinstate the  
 951 | original order of parole, order the placement of the parolee  
 952 | into a community control program as set forth in s. 948.03, or  
 953 | enter such other order as is proper.

954 |       (c) If the disposition after the revocation hearing is to  
 955 | place the parolee into a community control program, the  
 956 | commission shall be guided by the procedures and requirements  
 957 | provided in chapter 948 which apply to the courts regarding the  
 958 | development and implementation of community control.

959 |  
 960 | However, any decision to revoke parole shall be based on a  
 961 | violation of a term or condition specifically enumerated in the  
 962 | parole release order. In a case in which parole is revoked, the  
 963 | majority of the commission or the two commissioners shall make a  
 964 | written statement of the evidence relied on and the reasons for  
 965 | revoking parole.

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966 |           Section 20.   Except as otherwise provided, this act shall  
967 | take effect upon becoming a law.