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A bill to be entitled

An act relating to probation and community control; amending s. 948.001, F.S.; revising provisions related to administrative probation; amending s. 948.01, F.S.; correcting a cross reference; transferring and renumbering provisions governing probation and community control as s. 948.10(10), F.S.; transferring and renumbering provisions authorizing a split sentence of probation or community control and imprisonment as s. 948.012(1), F.S.; amending s. 948.01, F.S.; prohibiting a private entity from providing probation or supervision services to certain offenders; transferring and renumbering provisions relating to violations of community control as s. 948.10(9), F.S.; transferring and renumbering provisions restricting the placement of certain offenders into community control as s. 948.10(2), F.S.; transferring and renumbering provisions authorizing split sentencing as s. 948.012(2) and (3), F.S.; deleting a cross reference, to conform; transferring and renumbering provisions relating to drug offender probation as s. 948.20, F.S.; transferring and renumbering provisions governing community control and criminal quarantine community control as s. 948.101(3), F.S.; transferring and renumbering provisions relating to administrative probation as s. 948.013(2), F.S.; amending s. 948.011, F.S.; clarifying circumstances under which the court may impose a fine or place an offender on probation or community control; amending s. 948.03, F.S., as amended by ch. 2003-402, Laws of Florida; conforming cross

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30 references; deleting references to community control;  
31 providing for submission of blood or other biological  
32 specimens as a standard condition of probation;  
33 transferring and renumbering provisions relating to  
34 intensive supervision and surveillance as s. 948.101(1)(a)  
35 and (b), F.S.; authorizing the court to impose additional  
36 terms or conditions of community control; providing  
37 limitations; amending, transferring, and renumbering  
38 provisions governing electronic monitoring as s. 948.11(1)  
39 through (4), F.S.; requiring persons who are being  
40 electronically monitored to pay a surcharge; transferring  
41 and renumbering provisions governing the diagnosis,  
42 evaluation, and treatment of certain sex offenders as s.  
43 948.31, F.S.; transferring and renumbering provisions  
44 governing additional terms and conditions of probation or  
45 community control for certain sex offenses as s. 948.30,  
46 F.S.; clarifying a requirement for submitting blood and  
47 other specimens; transferring and renumbering provisions  
48 relating to residential treatment as s. 948.035, F.S.;  
49 deleting obsolete references; transferring and renumbering  
50 provisions relating to work programs as s. 948.036, F.S.;  
51 transferring and renumbering provisions relating to  
52 education and learning as a condition of probation or  
53 community control as s. 948.037, F.S.; transferring and  
54 renumbering provisions relating to the submission of blood  
55 specimens as s. 948.014, F.S.; providing for the  
56 submission of other biological specimens; transferring and  
57 renumbering provisions relating to a batterers'  
58 intervention program as s. 948.038, F.S.; deleting an

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59 |       obsolete reference; creating s. 948.039, F.S.; authorizing  
60 |       the court to impose special terms and conditions of  
61 |       probation or community control, including requiring the  
62 |       offender to attend an HIV/AIDS awareness program and pay  
63 |       certain costs; amending s. 948.06, F.S., relating to  
64 |       procedures following an arrest of an offender for a  
65 |       violation of probation or community control; transferring  
66 |       and renumbering provisions relating to the arrest of  
67 |       persons for certain sex offenses as s. 948.32, F.S.;  
68 |       amending s. 948.09, F.S.; requiring an offender under  
69 |       addiction-recovery supervision to pay the cost of  
70 |       supervision; amending s. 948.10, F.S.; correcting a cross  
71 |       reference; amending ss. 948.04, 440.02, 775.21, 812.0155,  
72 |       921.0017, 921.187, 947.23, and 958.14, F.S.; revising  
73 |       cross references, to conform; reenacting ss.  
74 |       944.4731(2)(b) and (7)(b), 948.01(8), and 948.06(5), F.S.,  
75 |       relating to the Addiction-Recovery Supervision Program,  
76 |       when the court may place a defendant on probation or into  
77 |       community control, and violations of probation or  
78 |       community control, respectively, for the purpose of  
79 |       incorporating the amendment to s. 948.09, F.S., in  
80 |       references thereto; reenacting s. 947.1747, F.S., relating  
81 |       to community control as a special condition of parole, for  
82 |       the purpose of incorporating the amendment to s. 948.10,  
83 |       F.S., in a reference thereto; providing an effective date.

84 |  
85 |       Be It Enacted by the Legislature of the State of Florida:  
86 |

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87 Section 1. Subsection (1) of section 948.001, Florida  
 88 Statutes, is amended to read:

89 948.001 Definitions.--As used in this chapter, the term:

90 (1) "Administrative probation" means a form of noncontact  
 91 supervision in which an offender who presents a low risk of harm  
 92 to the community may, upon satisfactory completion of half the  
 93 term of probation, be transferred ~~placed~~ by the Department of  
 94 Corrections to ~~en~~ nonreporting status until expiration of the  
 95 term of supervision. ~~The department is authorized to collect an~~  
 96 ~~initial processing fee of up to \$50 for each probationer reduced~~  
 97 ~~to administrative probation. Such offender is exempt from~~  
 98 ~~further payment for cost of supervision as required in s.~~  
 99 ~~948.09.~~

100 Section 2. Paragraph (c) of subsection (3) of section  
 101 948.01, Florida Statutes, is amended, subsection (7) is  
 102 renumbered as subsection (5) and amended, and subsection (8) is  
 103 renumbered as subsection (6) of said section, to read:

104 948.01 When court may place defendant on probation or into  
 105 community control.--

106 (3) If, after considering the provisions of subsection (2)  
 107 and the offender's prior record or the seriousness of the  
 108 offense, it appears to the court in the case of a felony  
 109 disposition that probation is an unsuitable dispositional  
 110 alternative to imprisonment, the court may place the offender in  
 111 a community control program as provided in s. 948.10. Or, in a  
 112 case of prior disposition of a felony commitment, upon motion of  
 113 the offender or the department or upon its own motion, the court  
 114 may, within the period of its retained jurisdiction following  
 115 commitment, suspend the further execution of the disposition and

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116 place the offender in a community control program upon such  
 117 terms as the court may require. The court may consult with a  
 118 local offender advisory council pursuant to s. 948.90 with  
 119 respect to the placement of an offender into community control.  
 120 Not later than 3 working days before the hearing on the motion,  
 121 the department shall forward to the court all relevant material  
 122 on the offender's progress while in custody. If this sentencing  
 123 alternative to incarceration is utilized, the court shall:

124 (c) Require the department to provide notifications  
 125 pursuant to s. 948.10~~(7)~~~~(6)~~.

126 ~~(5)~~~~(7)~~ ~~In no case shall~~ The imposition of sentence may not  
 127 be suspended and the defendant thereupon placed on probation or  
 128 into community control unless the ~~such~~ defendant is placed under  
 129 the custody of the department or another public or private  
 130 entity. A private entity may not provide probationary or  
 131 supervision services to felony or misdemeanor offenders  
 132 sentenced or placed on probation or other supervision by the  
 133 circuit court.

134 ~~(6)~~~~(8)~~ When the court, under any of the foregoing  
 135 subsections, places a defendant on probation or into community  
 136 control, it may specify that the defendant serve all or part of  
 137 the probationary or community control period in a community  
 138 residential or nonresidential facility under the jurisdiction of  
 139 the Department of Corrections or the Department of Children and  
 140 Family Services or any public or private entity providing such  
 141 services, and it shall require the payment prescribed in s.  
 142 948.09.

143 Section 3. Subsection (8) of section 948.10, Florida  
 144 Statutes, is renumbered as subsection (11), and subsection (5)

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145 of section 948.01, Florida Statutes, is transferred and  
 146 renumbered as subsection (10) of section 948.10, Florida  
 147 Statutes.

148 Section 4. Subsection (12) of section 948.01, Florida  
 149 Statutes, is amended, transferred, and renumbered as subsection  
 150 (3) of section 948.012, Florida Statutes, and subsections (6)  
 151 and (11) of section 948.01, Florida Statutes, are transferred  
 152 and renumbered, respectively, as subsections (1) and (2) of  
 153 section 948.012, Florida Statutes, which is created to read:

154 948.012 Split sentence of probation or community control  
 155 and imprisonment.--

156 (1)~~(6)~~ Whenever punishment by imprisonment for a  
 157 misdemeanor or a felony, except for a capital felony, is  
 158 prescribed, the court, in its discretion, may, at the time of  
 159 sentencing, impose a split sentence whereby the defendant is to  
 160 be placed on probation or, with respect to any such felony, into  
 161 community control upon completion of any specified period of  
 162 such sentence which may include a term of years or less. In  
 163 such case, the court shall stay and withhold the imposition of  
 164 the remainder of sentence imposed upon the defendant and direct  
 165 that the defendant be placed upon probation or into community  
 166 control after serving such period as may be imposed by the  
 167 court. The period of probation or community control shall  
 168 commence immediately upon the release of the defendant from  
 169 incarceration, whether by parole or gain-time allowances.

170 (2)~~(11)~~ The court may also impose a split sentence whereby  
 171 the defendant is sentenced to a term of probation which may be  
 172 followed by a period of incarceration or, with respect to a  
 173 felony, into community control, as follows:

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

177 (b) If the offender does not meet the terms and conditions  
 178 of probation or community control, the court may revoke, modify,  
 179 or continue the probation or community control as provided in s.  
 180 948.06. If the probation or community control is revoked, the  
 181 court may impose any sentence that it could have imposed at the  
 182 time the offender was placed on probation or community control.  
 183 The court may not provide credit for time served for any portion  
 184 of a probation or community control term toward a subsequent  
 185 term of probation or community control. However, the court may  
 186 not impose a subsequent term of probation or community control  
 187 which, when combined with any amount of time served on preceding  
 188 terms of probation or community control for offenses pending  
 189 before the court for sentencing, would exceed the maximum  
 190 penalty allowable as provided in s. 775.082. Such term of  
 191 incarceration shall be served under applicable law or county  
 192 ordinance governing service of sentences in state or county  
 193 jurisdiction. This paragraph does not prohibit any other  
 194 sanction provided by law.

195 ~~(3)(12)~~ The court may also impose split probation whereby,  
 196 upon satisfactory completion of half the term of probation, the  
 197 Department of Corrections may place the offender on  
 198 administrative probation ~~as defined in s. 948.001~~ for the  
 199 remainder of the term of supervision.

200 Section 5. Subsection (9) of section 948.10, Florida  
 201 Statutes, is renumbered as subsection (12), and subsection (9)  
 202 of section 948.01, Florida Statutes, is transferred and

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203 renumbered as subsection (9) of section 948.10, Florida  
 204 Statutes.

205 Section 6. Subsections (2) through (6) of section 948.10,  
 206 Florida Statutes, are renumbered as subsections (3) through (7),  
 207 respectively, subsection (7) of said section is renumbered as  
 208 subsection (8) and amended, and subsection (10) of section  
 209 948.01, Florida Statutes, is transferred and renumbered as  
 210 subsection (2) of section 948.10, Florida Statutes, to read:

211 948.10 Community control programs.--

212 (2)~~(10)~~ An offender may not be placed in community control  
 213 if:

214 (a) Convicted of or adjudication withheld for a forcible  
 215 felony as defined in s. 776.08, and

216 (b) Previously convicted of or adjudication withheld for a  
 217 forcible felony as defined in s. 776.08.

218  
 219 Nothing in this subsection prohibits placement of certain  
 220 inmates on community control pursuant to s. 947.1747. For the  
 221 purposes of this subsection, a forcible felony does not include  
 222 manslaughter or burglary.

223 (8)~~(7)~~ If an offender is sentenced to community control by  
 224 the court and the offender is ineligible to be placed on  
 225 community control as provided in subsection (2) ~~s. 948.01(10)~~,  
 226 the department shall:

227 (a) Review and verify whether an ineligible offender was  
 228 placed on community control.

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



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231 that the offender was ineligible for placement on community  
232 control.

233 (c) Provide a quarterly report to the chief judge and the  
234 state attorney of each circuit citing the number of ineligible  
235 offenders placed on community control within that circuit.

236 (d) Provide an annual report to the Governor, the  
237 President of the Senate, the Speaker of the House of  
238 Representatives, and the Chief Justice of the Supreme Court on  
239 the placement of ineligible offenders on community control in  
240 order to assist in preparing judicial education programs or for  
241 any other purpose.

242 Section 7. Subsection (13) of section 948.01, Florida  
243 Statutes, is amended, transferred, and renumbered as section  
244 948.20, Florida Statutes, which is created to read:

245 948.20 Drug offender probation.--

246 ~~(13)~~ If it appears to the court upon a hearing that the  
247 defendant is a chronic substance abuser whose criminal conduct  
248 is a violation of s. 893.13(2)(a) or (6)(a), the court may  
249 either adjudge the defendant guilty or stay and withhold the  
250 adjudication of guilt; and, in either case, it may stay and  
251 withhold the imposition of sentence and place the defendant on  
252 drug offender probation.

253 (1)~~(a)~~ The Department of Corrections shall develop and  
254 administer a drug offender probation program which emphasizes a  
255 combination of treatment and intensive community supervision  
256 approaches and which includes provision for supervision of  
257 offenders in accordance with a specific treatment plan. The  
258 program may include the use of graduated sanctions consistent  
259 with the conditions imposed by the court. Drug offender

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260 probation status shall include surveillance and random drug  
 261 testing, and may include those measures normally associated with  
 262 community control, except that specific treatment conditions and  
 263 other treatment approaches necessary to monitor this population  
 264 may be ordered.

265 ~~(2)(b)~~ Offenders placed on drug offender probation are  
 266 subject to revocation of probation as provided in s. 948.06.

267 Section 8. Subsection (2) of section 948.03, Florida  
 268 Statutes, is amended, transferred, and redesignated as  
 269 paragraphs (a) and (b) of subsection (1) of section 948.101,  
 270 Florida Statutes, and subsection (14) of section 948.01, Florida  
 271 Statutes, is transferred and renumbered as subsection (3) of  
 272 section 948.101, Florida Statutes, which is created to read:

273 948.101 Terms and conditions of community control and  
 274 criminal quarantine community control.--

275 (1) The court shall determine the terms and conditions of  
 276 community control. Conditions specified in this subsection do  
 277 not require oral pronouncement at the time of sentencing and may  
 278 be considered standard conditions of community control.

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

- 282 1. Specified contact with the parole and probation  
 283 officer.
- 284 2. Confinement to an agreed-upon residence during hours  
 285 away from employment and public service activities.
- 286 3. Mandatory public service.
- 287 4. Supervision by the Department of Corrections by means  
 288 of an electronic monitoring device or system.

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289 5. The standard conditions of probation set forth in s.  
 290 948.03.

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

- 293 1. Electronic monitoring 24 hours per day.
- 294 2. Confinement to a designated residence during designated  
 295 hours.

296 (2) The enumeration of specific kinds of terms and  
 297 conditions does not prevent the court from adding thereto any  
 298 other terms or conditions that the court considers proper.  
 299 However, the sentencing court may only impose a condition of  
 300 supervision allowing an offender convicted under s. 794.011, s.  
 301 800.04, s. 827.071, or s. 847.0145 to reside in another state if  
 302 the order stipulates that it is contingent upon the approval of  
 303 the receiving state's interstate compact authority. The court  
 304 may rescind or modify at any time the terms and conditions  
 305 theretofore imposed by it upon the offender in community  
 306 control. However, if the court withholds adjudication of guilt  
 307 or imposes a period of incarceration as a condition of community  
 308 control, the period may not exceed 364 days, and incarceration  
 309 shall be restricted to a county facility, a probation and  
 310 restitution center under the jurisdiction of the Department of  
 311 Corrections, a probation program drug punishment phase I secure  
 312 residential treatment institution, or a community residential  
 313 facility owned or operated by any entity providing such  
 314 services.

315 (3)~~(14)~~ The court may place a defendant who is being  
 316 sentenced for criminal transmission of HIV in violation of s.  
 317 775.0877 on criminal quarantine community control. The

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318 Department of Corrections shall develop and administer a  
 319 criminal quarantine community control program emphasizing  
 320 intensive supervision with 24-hour-per-day electronic  
 321 monitoring. Criminal quarantine community control status must  
 322 include surveillance and may include other measures normally  
 323 associated with community control, except that specific  
 324 conditions necessary to monitor this population may be ordered.

325 Section 9. Subsection (15) of section 948.01, Florida  
 326 Statutes, is amended, transferred, and renumbered as subsection  
 327 (2) of section 948.013, Florida Statutes, which is created to  
 328 read:

329 948.013 Administrative probation.--  
 330 (1) The Department of Corrections may establish procedures  
 331 for transferring an offender to administrative probation. The  
 332 department may collect an initial processing fee of up to \$50  
 333 for each probationer transferred to administrative probation.  
 334 The offender is exempt from further payment for the cost of  
 335 supervision as required in s. 948.09.

336 ~~(2)(15)~~ Effective for an offense committed on or after  
 337 July 1, 1998, a person is ineligible for placement on  
 338 administrative probation if the person is sentenced to or is  
 339 serving a term of probation or community control, regardless of  
 340 the conviction or adjudication, for committing, or attempting,  
 341 conspiring, or soliciting to commit, any of the felony offenses  
 342 described in s. 787.01 or s. 787.02, where the victim is a minor  
 343 and the defendant is not the victim's parent; s. 787.025;  
 344 chapter 794; s. 796.03; s. 800.04; s. 825.1025(2)(b); s.  
 345 827.071; s. 847.0133; s. 847.0135; or s. 847.0145.

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346 Section 10. Section 948.011, Florida Statutes, is amended  
 347 to read:

348 948.011 When court may impose fine and place on probation  
 349 or into community control as an alternative to  
 350 imprisonment.--When the law authorizes the placing of a  
 351 defendant on probation, and when the defendant's offense is  
 352 punishable by both fine and imprisonment, the trial court may,  
 353 in its discretion, impose a fine upon him or her and place him  
 354 or her on probation or into community control as an alternative  
 355 to imprisonment.

356 Section 11. Subsection (1) of section 948.03, Florida  
 357 Statutes, as amended by section 136 of chapter 2003-402, Laws of  
 358 Florida, is amended, and subsection (6) of said section is  
 359 renumbered as subsection (2) and amended, to read:

360 948.03 Terms and conditions of probation ~~or community~~  
 361 ~~control~~.--

362 (1) The court shall determine the terms and conditions of  
 363 probation ~~or community control~~. Conditions specified in this  
 364 section paragraphs (a)-(m) do not require oral pronouncement at  
 365 the time of sentencing and may be considered standard conditions  
 366 of probation. ~~Conditions specified in paragraphs (a)-(m) and~~  
 367 ~~(2)(a) do not require oral pronouncement at sentencing and may~~  
 368 ~~be considered standard conditions of community control~~. These  
 369 conditions may include among them the following, that the  
 370 probationer or offender in community control shall:

371 (a) Report to the probation and parole supervisors as  
 372 directed.

373 (b) Permit such supervisors to visit him or her at his or  
 374 her home or elsewhere.

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375 (c) Work faithfully at suitable employment insofar as may  
 376 be possible.

377 (d) Remain within a specified place.

378 (e) Make reparation or restitution to the aggrieved party  
 379 for the damage or loss caused by his or her offense in an amount  
 380 to be determined by the court. The court shall make such  
 381 reparation or restitution a condition of probation, unless it  
 382 determines that clear and compelling reasons exist to the  
 383 contrary. If the court does not order restitution, or orders  
 384 restitution of only a portion of the damages, as provided in s.  
 385 775.089, it shall state on the record in detail the reasons  
 386 therefor.

387 (f) Effective July 1, 1994, and applicable for offenses  
 388 committed on or after that date, make payment of the debt due  
 389 and owing to a county or municipal detention facility under s.  
 390 951.032 for medical care, treatment, hospitalization, or  
 391 transportation received by the felony probationer while in that  
 392 detention facility. The court, in determining whether to order  
 393 such repayment and the amount of such repayment, shall consider  
 394 the amount of the debt, whether there was any fault of the  
 395 institution for the medical expenses incurred, the financial  
 396 resources of the felony probationer, the present and potential  
 397 future financial needs and earning ability of the probationer,  
 398 and dependents, and other appropriate factors.

399 (g) Support his or her legal dependents to the best of his  
 400 or her ability.

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

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

407 (j) Not associate with persons engaged in criminal  
 408 activities.

409 (k)1. Submit to random testing as directed by the  
 410 correctional probation officer or the professional staff of the  
 411 treatment center where he or she is receiving treatment to  
 412 determine the presence or use of alcohol or controlled  
 413 substances.

414 2. If the offense was a controlled substance violation and  
 415 the period of probation immediately follows a period of  
 416 incarceration in the state correction system, the conditions  
 417 shall include a requirement that the offender submit to random  
 418 substance abuse testing intermittently throughout the term of  
 419 supervision, upon the direction of the correctional probation  
 420 officer as defined in s. 943.10(3).

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

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

429 (n) Submit to the drawing of blood or other biological  
 430 specimens as prescribed in ss. 948.014 and 943.325 and reimburse  
 431 the appropriate agency for the costs of drawing and transmitting

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432 the blood or other biological specimens to the Department of Law  
 433 Enforcement.

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

438 ~~(o) Pay not more than \$1 per month during the term of~~  
 439 ~~probation or community control to a nonprofit organization~~  
 440 ~~established for the sole purpose of supplementing the~~  
 441 ~~rehabilitative efforts of the Department of Corrections.~~

442 (2)(6) The enumeration of specific kinds of terms and  
 443 conditions shall not prevent the court from adding thereto such  
 444 other or others as it considers proper. However, the sentencing  
 445 court may only impose a condition of supervision allowing an  
 446 offender convicted of s. 794.011, s. 800.04, s. 827.071, or s.  
 447 847.0145, to reside in another state, if the order stipulates  
 448 that it is contingent upon the approval of the receiving state  
 449 interstate compact authority. The court may rescind or modify at  
 450 any time the terms and conditions theretofore imposed by it upon  
 451 the probationer ~~or offender in community control~~. However, if  
 452 the court withholds adjudication of guilt or imposes a period of  
 453 incarceration as a condition of probation ~~or community control~~,  
 454 the period shall not exceed 364 days, and incarceration shall be  
 455 restricted to either a county facility, a probation and  
 456 restitution center under the jurisdiction of the Department of  
 457 Corrections, a probation program drug punishment phase I secure  
 458 residential treatment institution, or a community residential  
 459 facility owned or operated by any entity providing such  
 460 services.



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461 Section 12. Subsection (3) of section 948.03, Florida  
 462 Statutes, is amended, transferred, and renumbered as section  
 463 948.11, Florida Statutes, which is amended to read:

464 948.11 Electronic monitoring devices.--~~Pursuant to chapter~~  
 465 ~~287, the department shall issue a request for proposal for~~  
 466 ~~electronic monitoring devices to be utilized by the department~~  
 467 ~~for purposes of electronic monitoring under this section or any~~  
 468 ~~other section of law which authorizes electronic monitoring.~~  
 469 ~~Electronic monitoring devices certified for use by the~~  
 470 ~~department must be licensed by the FCC, must be capable of~~  
 471 ~~maintaining full operation on a backup power source for 8 hours,~~  
 472 ~~and must meet such other necessary and vital specifications as~~  
 473 ~~may be set by the department for tamper alert, efficient, and~~  
 474 ~~economical usage. The provisions of this section do not apply to~~  
 475 ~~passive devices.~~

476 (1)~~(3)~~(a)1. The Department of Corrections may, at its  
 477 discretion, electronically monitor an offender sentenced to  
 478 community control.

479 (b)2. The Department of Corrections shall electronically  
 480 monitor an offender sentenced to criminal quarantine community  
 481 control 24 hours per day.

482 (2)~~(b)~~ Any offender placed on community control who  
 483 violates the terms and conditions of community control and is  
 484 restored to community control may be supervised by means of an  
 485 electronic monitoring device or system.

486 (3)~~(e)~~ For those offenders being electronically monitored,  
 487 the Department of Corrections shall develop procedures to  
 488 determine, investigate, and report the offender's noncompliance  
 489 with the terms and conditions of sentence 24 hours per day. All

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490 reports of noncompliance shall be immediately investigated by a  
 491 community control officer.

492 ~~(4)(d)~~ The Department of Corrections may contract with  
 493 local law enforcement agencies to assist in the location and  
 494 apprehension of offenders who are in noncompliance as reported  
 495 by the electronic monitoring system. This contract is intended  
 496 to provide the department a means for providing immediate  
 497 investigation of noncompliance reports, especially after normal  
 498 office hours.

499 (5) Any person being electronically monitored by the  
 500 department as a result of placement on community control shall  
 501 be required to pay a surcharge as provided in s. 948.09(2).

502 Section 13. Subsection (4) of section 948.03, Florida  
 503 Statutes, is amended, transferred, and renumbered as section  
 504 948.31, Florida Statutes, which is created to read:

505 948.31 Diagnosis, evaluation, and treatment of offenders  
 506 placed on probation or community control for certain sex  
 507 offenses or child exploitation.--

508 ~~(4)~~ The court shall require a diagnosis and evaluation to  
 509 determine the need of a probationer or offender in community  
 510 control for treatment. If the court determines that a need  
 511 therefor is established by such diagnosis and evaluation  
 512 process, the court shall require outpatient counseling as a term  
 513 or condition of probation or community control for any person  
 514 who was found guilty of any of the following, or whose plea of  
 515 guilty or nolo contendere to any of the following was accepted  
 516 by the court:

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517        (1)~~(a)~~ Lewd or lascivious battery, lewd or lascivious  
 518 molestation, lewd or lascivious conduct, or lewd or lascivious  
 519 exhibition, as defined in s. 800.04.

520        (2)~~(b)~~ Sexual battery, as defined in chapter 794, against  
 521 a child.

522        (3)~~(c)~~ Exploitation of a child as provided in s. 450.151,  
 523 or for prostitution.

524  
 525 Such counseling shall be required to be obtained from a  
 526 community mental health center, a recognized social service  
 527 agency providing mental health services, or a private mental  
 528 health professional or through other professional counseling.  
 529 The plan for counseling for the individual shall be provided to  
 530 the court for review.

531        Section 14. Subsection (5) of section 948.03, Florida  
 532 Statutes, is amended, transferred, and renumbered as section  
 533 948.30, Florida Statutes, which is created to read:

534        948.30 Additional terms and conditions of probation or  
 535 community control for certain sex offenses.--

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

541        (1)~~(a)~~ Effective for probationers or community controllees  
 542 whose crime was committed on or after October 1, 1995, and who  
 543 are placed under supervision for violation of chapter 794, s.  
 544 800.04, s. 827.071, or s. 847.0145, the court must impose the

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545 following conditions in addition to all other standard and  
546 special conditions imposed:

547 (a)1- A mandatory curfew from 10 p.m. to 6 a.m. The court  
548 may designate another 8-hour period if the offender's employment  
549 precludes the above specified time, and such alternative is  
550 recommended by the Department of Corrections. If the court  
551 determines that imposing a curfew would endanger the victim, the  
552 court may consider alternative sanctions.

553 (b)2- If the victim was under the age of 18, a prohibition  
554 on living within 1,000 feet of a school, day care center, park,  
555 playground, or other place where children regularly congregate,  
556 as prescribed by the court. The 1,000-foot distance shall be  
557 measured in a straight line from the offender's place of  
558 residence to the nearest boundary line of the school, day care  
559 center, park, playground, or other place where children  
560 congregate. The distance may not be measured by a pedestrian  
561 route or automobile route.

562 (c)3- Active participation in and successful completion of  
563 a sex offender treatment program with therapists specifically  
564 trained to treat sex offenders, at the probationer's or  
565 community controllee's own expense. If a specially trained  
566 therapist is not available within a 50-mile radius of the  
567 probationer's or community controllee's residence, the offender  
568 shall participate in other appropriate therapy.

569 (d)4- A prohibition on any contact with the victim,  
570 directly or indirectly, including through a third person, unless  
571 approved by the victim, the offender's therapist, and the  
572 sentencing court.

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573        (e)~~5~~. If the victim was under the age of 18, a  
 574 prohibition, until successful completion of a sex offender  
 575 treatment program, on unsupervised contact with a child under  
 576 the age of 18, unless authorized by the sentencing court without  
 577 another adult present who is responsible for the child's  
 578 welfare, has been advised of the crime, and is approved by the  
 579 sentencing court.

580        (f)~~6~~. If the victim was under age 18, a prohibition on  
 581 working for pay or as a volunteer at any school, day care  
 582 center, park, playground, or other place where children  
 583 regularly congregate.

584        (g)~~7~~. Unless otherwise indicated in the treatment plan  
 585 provided by the sexual offender treatment program, a prohibition  
 586 on viewing, owning, or possessing any obscene, pornographic, or  
 587 sexually stimulating visual or auditory material, including  
 588 telephone, electronic media, computer programs, or computer  
 589 services that are relevant to the offender's deviant behavior  
 590 pattern.

591        (h)~~8~~. A requirement that the probationer or community  
 592 controllee must submit a specimen ~~two specimens~~ of blood or  
 593 other approved biological specimen ~~specimens~~ to the Florida  
 594 Department of Law Enforcement to be registered with the DNA data  
 595 bank.

596        (i)~~9~~. A requirement that the probationer or community  
 597 controllee make restitution to the victim, as ordered by the  
 598 court under s. 775.089, for all necessary medical and related  
 599 professional services relating to physical, psychiatric, and  
 600 psychological care.

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601        (j)~~10~~. Submission to a warrantless search by the community  
 602 control or probation officer of the probationer's or community  
 603 controllee's person, residence, or vehicle.

604        (2)~~(b)~~ Effective for a probationer or community controllee  
 605 whose crime was committed on or after October 1, 1997, and who  
 606 is placed on sex offender probation for a violation of chapter  
 607 794, s. 800.04, s. 827.071, or s. 847.0145, in addition to any  
 608 other provision of this subsection, the court must impose the  
 609 following conditions of probation or community control:

610        (a)~~1~~. As part of a treatment program, participation at  
 611 least annually in polygraph examinations to obtain information  
 612 necessary for risk management and treatment and to reduce the  
 613 sex offender's denial mechanisms. A polygraph examination must  
 614 be conducted by a polygrapher trained specifically in the use of  
 615 the polygraph for the monitoring of sex offenders, where  
 616 available, and shall be paid for by the sex offender. The  
 617 results of the polygraph examination shall not be used as  
 618 evidence in court to prove that a violation of community  
 619 supervision has occurred.

620        (b)~~2~~. Maintenance of a driving log and a prohibition  
 621 against driving a motor vehicle alone without the prior approval  
 622 of the supervising officer.

623        (c)~~3~~. A prohibition against obtaining or using a post  
 624 office box without the prior approval of the supervising  
 625 officer.

626        (d)~~4~~. If there was sexual contact, a submission to, at the  
 627 probationer's or community controllee's expense, an HIV test  
 628 with the results to be released to the victim or ~~and/or~~ the  
 629 victim's parent or guardian.

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630        (e)~~5~~. Electronic monitoring when deemed necessary by the  
 631 community control or probation officer and his or her  
 632 supervisor, and ordered by the court at the recommendation of  
 633 the Department of Corrections.

634        Section 15. Subsection (7) of section 948.03, Florida  
 635 Statutes, is amended, transferred, and renumbered as section  
 636 948.035, Florida Statutes, which is created to read:

637        948.035 Residential treatment as a condition of probation  
 638 or community control.--

639        (1)~~(7)~~~~(a)~~ If the court imposes a period of residential  
 640 treatment or incarceration as a condition of probation or  
 641 community control, the residential treatment or incarceration  
 642 shall be restricted to the following facilities:

643        (a)~~1~~. A Department of Corrections probation and  
 644 restitution center;

645        (b)~~2~~. A probation program drug punishment treatment  
 646 community;

647        (c)~~3~~. A community residential facility which is owned and  
 648 operated by any public or private entity, excluding a community  
 649 correctional center as defined in s. 944.026; or

650        (d)~~4~~. A county-owned facility.

651        (2)~~(b)~~ It is the intent of the Legislature that a county  
 652 jail be used as the last available alternative for placement of  
 653 an offender as a condition of probation. However, this shall  
 654 not create a right of placement for the probationer, nor shall  
 655 it restrict judicial discretion in ordering such treatment or  
 656 incarceration.

657        (3)~~(e)~~ Prior to admission to such a facility or treatment  
 658 community, the court shall obtain an individual assessment and

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659 recommendation on the appropriate treatment needs pursuant to  
 660 ~~chapter 953~~ or the Community Control Implementation Manual which  
 661 shall be considered by the court in ordering such placements.  
 662 Placement in such a facility or center, or in the phase I secure  
 663 residential phase of a probation program drug punishment  
 664 treatment community, shall not exceed 364 days. Early completion  
 665 of an offender's placement shall be recommended to the court,  
 666 when appropriate, by the facility or center supervisor, by the  
 667 supervising probation officer, or by the program manager.  
 668 ~~However, with respect to the placement of a probationer pursuant~~  
 669 ~~to chapter 953, such placement shall not be completed until~~  
 670 ~~satisfactory completion of the drug punishment program.~~  
 671 ~~Termination for cause from such a program shall be pursuant to~~  
 672 ~~s. 953.25(4).~~ The Department of Corrections is authorized to  
 673 contract with appropriate agencies for provision of services.

674 Section 16. Subsection (8) of section 948.03, Florida  
 675 Statutes, is amended, transferred, and renumbered as section  
 676 948.036, Florida Statutes, which is created to read:

677 948.036 Work programs as a condition of probation,  
 678 community control, or other court-ordered community  
 679 supervision.--

680 (1)(8)(a) Whenever an offender is required by the court to  
 681 participate in any work program under the provisions of this  
 682 chapter, enters into the pretrial intervention program pursuant  
 683 to s. 948.08, or volunteers to work in a supervised work program  
 684 conducted by a specified state, county, municipal, or community  
 685 service organization or to work for the victim, either as an  
 686 alternative to monetary restitution or as a part of the  
 687 rehabilitative or community control program, the offender shall



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688 be considered an employee of the state for the purposes of  
 689 chapter 440.

690 (2)(b) In determining the average weekly wage, unless  
 691 otherwise determined by a specific funding program, all  
 692 remuneration received from the employer shall be considered a  
 693 gratuity, and the offender shall not be entitled to any benefits  
 694 otherwise payable under s. 440.15, regardless of whether the  
 695 offender may be receiving wages and remuneration from other  
 696 employment with another employer and regardless of his or her  
 697 future wage-earning capacity. The provisions of this section  
 698 ~~subsection~~ do not apply to any person performing labor under a  
 699 sentence of a court to perform community services as provided in  
 700 s. 316.193.

701 Section 17. Subsection (9) of section 948.03, Florida  
 702 Statutes, is amended, transferred, and renumbered as section  
 703 948.037, Florida Statutes, which is created to read:

704 948.037 Education and learning as a condition of probation  
 705 or community control.--

706 (1)(9)(a) As a condition of community control, probation,  
 707 or probation following incarceration, the court shall require an  
 708 offender who has not obtained a high school diploma or high  
 709 school equivalency diploma or who lacks basic or functional  
 710 literacy skills, upon acceptance by an adult education program,  
 711 to make a good faith effort toward completion of such basic or  
 712 functional literacy skills or high school equivalency diploma,  
 713 as defined in s. 1003.435, in accordance with the assessed adult  
 714 general education needs of the individual offender. The court  
 715 shall not revoke community control, probation, or probation  
 716 following incarceration because of the offender's inability to

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717 achieve such skills or diploma but may revoke community control,  
 718 probation, or probation following incarceration if the offender  
 719 fails to make a good faith effort to achieve such skills or  
 720 diploma. The court may grant early termination of community  
 721 control, probation, or probation following incarceration upon  
 722 the offender's successful completion of the approved program.  
 723 As used in this subsection, "good faith effort" means the  
 724 offender is enrolled in a program of instruction and is  
 725 attending and making satisfactory progress toward completion of  
 726 the requirements.

727 (2)~~(b)~~ A juvenile on community control who is a public  
 728 school student must attend a public adult education program or a  
 729 dropout prevention program, pursuant to s. 1003.53, which  
 730 includes a second chance school or an alternative to expulsion,  
 731 if the school district where the juvenile is enrolled offers  
 732 such programs, unless the principal of the school determines  
 733 that special circumstances warrant continuation in the regular  
 734 educational school program.

735 (3)~~(e)~~ If a juvenile on community control attends a  
 736 regular educational school program because a public adult  
 737 education program or dropout prevention program, which includes  
 738 a second chance school or an alternative to expulsion, is not  
 739 available in the school district, the identity of the juvenile  
 740 on community control, the nature of the felony offense committed  
 741 by the juvenile, and the conditions of community control must be  
 742 made known to each of the student's teachers.

743 Section 18. Subsections (10) and subsection (11) of  
 744 section 948.03, Florida Statutes, are amended, transferred, and  
 745 renumbered as subsections (1) and (2) and subsection (3),

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746 respectively, of section 948.014, Florida Statutes, which is  
747 created to read:

748 948.014 Requirement to submit to drawing of blood or other  
749 biological specimens.--

750 ~~(1)(10)~~ As a condition of probation, community control, or  
751 any other court-ordered community supervision, the court shall  
752 order persons convicted of offenses specified in s. 943.325 to  
753 submit to the drawing of the blood or other biological specimens  
754 as prescribed in that section as a condition of the probation,  
755 community control, or other court-ordered community supervision.

756 (2) For the purposes of this section ~~subsection~~,  
757 conviction shall include a finding of guilty, or entry of a plea  
758 of nolo contendere or guilty, regardless of adjudication, or, in  
759 the case of a juvenile, the finding of delinquency.

760 ~~(3)(11)~~ Any order issued pursuant to this section  
761 ~~subsection (10)~~ shall also require the convicted person to  
762 reimburse the appropriate agency for the costs of drawing and  
763 transmitting the blood or other biological specimens to the  
764 ~~Florida~~ Department of Law Enforcement.

765 Section 19. Subsection (12) of section 948.03, Florida  
766 Statutes, is amended, transferred, and renumbered as section  
767 948.038, Florida Statutes, which is created to read:

768 948.038 Batterers' intervention program as a condition of  
769 probation, community control, or other court-ordered community  
770 supervision.--

771 ~~(12)~~ As a condition of probation, community control, or  
772 any other court-ordered community supervision, the court shall  
773 order a person convicted of an offense of domestic violence, as  
774 defined in s. 741.28, to attend and successfully complete a

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775 batterers' intervention program unless the court determines that  
 776 the person does not qualify for the batterers' intervention  
 777 program pursuant to s. 741.325. ~~Effective July 1, 2002,~~ The  
 778 batterers' intervention program must be a program certified  
 779 under s. 741.32 and the offender must pay the cost of attending  
 780 the program.

781 Section 20. Section 948.039, Florida Statutes, is created  
 782 to read:

783 948.039 Special terms and conditions of probation or  
 784 community control imposed by court order.--The court may impose  
 785 any special terms and conditions of probation or community  
 786 control. The terms and conditions should be reasonably related  
 787 to the circumstances of the offense committed and appropriate  
 788 for the offender. The court shall impose the special terms and  
 789 conditions by oral pronouncement at sentencing and include the  
 790 terms and conditions in the written sentencing order. Special  
 791 terms and conditions may include, but are not limited to,  
 792 requirements that the offender:

793 (1) Attend an HIV/AIDS awareness program consisting of a  
 794 class of not less than 2 hours or more than 4 hours in length,  
 795 if such a program is available in the county of the offender's  
 796 residence. The offender shall pay the cost of attending the  
 797 program.

798 (2) Pay not more than \$1 per month during the term of  
 799 probation or community control to a nonprofit organization  
 800 established for the sole purpose of supplementing the  
 801 rehabilitative efforts of the Department of Corrections.

802 Section 21. Subsection (1) of section 948.06, Florida  
 803 Statutes, is amended, and for the purpose of incorporating the

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804 amendment to section 948.09, Florida Statutes, in a reference  
 805 thereto, subsection (5) of said section is reenacted, to read:

806 948.06 Violation of probation or community control;  
 807 revocation; modification; continuance; failure to pay  
 808 restitution or cost of supervision.--

809 (1)(a) Whenever within the period of probation or  
 810 community control there are reasonable grounds to believe that a  
 811 probationer or offender in community control has violated his or  
 812 her probation or community control in a material respect, any  
 813 law enforcement officer who is aware of the probationary or  
 814 community control status of the probationer or offender in  
 815 community control or any parole or probation supervisor may  
 816 arrest or request any county or municipal law enforcement  
 817 officer to arrest such probationer or offender without warrant  
 818 wherever found and forthwith return him or her to the court  
 819 granting such probation or community control.

820 (b) Any committing magistrate may issue a warrant, upon  
 821 the facts being made known to him or her by affidavit of one  
 822 having knowledge of such facts, for the arrest of the  
 823 probationer or offender, returnable forthwith before the court  
 824 granting such probation or community control.

825 (c) Any parole or probation supervisor, any officer  
 826 authorized to serve criminal process, or any peace officer of  
 827 this state is authorized to serve and execute such warrant.

828 (d) Upon the filing of an affidavit alleging a violation  
 829 of probation or community control and following issuance of a  
 830 warrant under s. 901.02, the probationary period is tolled until  
 831 the court enters a ruling on the violation. Notwithstanding the  
 832 tolling of probation as provided in this section ~~subsection~~, the

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833 court shall retain jurisdiction over the offender for any  
834 violation of the conditions of probation or community control  
835 that is alleged to have occurred during the tolling period. The  
836 probation officer is permitted to continue to supervise any  
837 offender who remains available to the officer for supervision  
838 until the supervision expires pursuant to the order of probation  
839 or community control or until the court revokes or terminates  
840 the probation or community control, whichever comes first.

841 (2)(a) The court, upon the probationer or offender being  
842 brought before it, shall advise him or her of such charge of  
843 violation and, if such charge is admitted to be true, may  
844 forthwith revoke, modify, or continue the probation or community  
845 control or place the probationer into a community control  
846 program.

847 (b) If probation or community control is revoked, the  
848 court shall adjudge the probationer or offender guilty of the  
849 offense charged and proven or admitted, unless he or she has  
850 previously been adjudged guilty, and impose any sentence which  
851 it might have originally imposed before placing the probationer  
852 on probation or the offender into community control.

853 (c) If such violation of probation or community control is  
854 not admitted by the probationer or offender, the court may  
855 commit him or her or release him or her with or without bail to  
856 await further hearing, or it may dismiss the charge of probation  
857 or community control violation.

858 (d) If such charge is not at that time admitted by the  
859 probationer or offender and if it is not dismissed, the court,  
860 as soon as may be practicable, shall give the probationer or

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861 offender an opportunity to be fully heard on his or her behalf  
862 in person or by counsel.

863 (e) After such hearing, the court may revoke, modify, or  
864 continue the probation or community control or place the  
865 probationer into community control. If such probation or  
866 community control is revoked, the court shall adjudge the  
867 probationer or offender guilty of the offense charged and proven  
868 or admitted, unless he or she has previously been adjudged  
869 guilty, and impose any sentence which it might have originally  
870 imposed before placing the probationer or offender on probation  
871 or into community control.

872 (f) Notwithstanding s. 775.082, when a period of probation  
873 or community control has been tolled, upon revocation or  
874 modification of the probation or community control, the court  
875 may impose a sanction with a term that when combined with the  
876 amount of supervision served and tolled, exceeds the term  
877 permissible pursuant to s. 775.082 for a term up to the amount  
878 of the tolled period of supervision.

879 (g) If the court dismisses an affidavit alleging a  
880 violation of probation or community control, the offender's  
881 probation or community control shall continue as previously  
882 imposed, and the offender shall receive credit for all tolled  
883 time against his or her term of probation or community control.

884 (5) In any hearing in which the failure of a probationer  
885 or offender in community control to pay restitution or the cost  
886 of supervision as provided in s. 948.09, as directed, is  
887 established by the state, if the probationer or offender asserts  
888 his or her inability to pay restitution or the cost of  
889 supervision, it is incumbent upon the probationer or offender to

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890 prove by clear and convincing evidence that he or she does not  
 891 have the present resources available to pay restitution or the  
 892 cost of supervision despite sufficient bona fide efforts legally  
 893 to acquire the resources to do so. If the probationer or  
 894 offender cannot pay restitution or the cost of supervision  
 895 despite sufficient bona fide efforts, the court shall consider  
 896 alternate measures of punishment other than imprisonment. Only  
 897 if alternate measures are not adequate to meet the state's  
 898 interests in punishment and deterrence may the court imprison a  
 899 probationer or offender in community control who has  
 900 demonstrated sufficient bona fide efforts to pay restitution or  
 901 the cost of supervision.

902 Section 22. Subsection (2) of section 948.06, Florida  
 903 Statutes, is amended, transferred, and renumbered as section  
 904 948.32, Florida Statutes, which is created to read:

905 948.32 Requirements of law enforcement agency upon arrest  
 906 of persons for certain sex offenses.--

907 (1)(2)(a) When any state or local law enforcement agency  
 908 investigates or arrests a person for committing, or attempting,  
 909 soliciting, or conspiring to commit, a violation of s. 787.025,  
 910 chapter 794, s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s.  
 911 847.0135, or s. 847.0145, the law enforcement agency shall  
 912 contact the Department of Corrections to verify whether the  
 913 person under investigation or under arrest is on probation,  
 914 community control, parole, conditional release, or control  
 915 release.

916 (2)(b) If the law enforcement agency finds that the person  
 917 under investigation or under arrest is on probation, community  
 918 control, parole, conditional release, or control release, the



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919 law enforcement agency shall immediately notify the person's  
 920 probation officer or release supervisor of the investigation or  
 921 the arrest.

922 Section 23. Subsection (1) of section 948.09, Florida  
 923 Statutes, is amended to read:

924 948.09 Payment for cost of supervision and  
 925 rehabilitation.--

926 (1)(a)1. Any person ordered by the court, the Department  
 927 of Corrections, or the parole commission to be placed on  
 928 probation, drug offender probation, community control, parole,  
 929 control release, provisional release supervision, addiction-  
 930 recovery supervision, or conditional release supervision under  
 931 chapter 944, chapter 945, chapter 947, chapter 948, or chapter  
 932 958, or in a pretrial intervention program, must, as a condition  
 933 of any placement, pay the department a total sum of money equal  
 934 to the total month or portion of a month of supervision times  
 935 the court-ordered amount, but not to exceed the actual per diem  
 936 cost of the supervision. The department shall adopt rules by  
 937 which an offender who pays in full and in advance of regular  
 938 termination of supervision may receive a reduction in the amount  
 939 due. The rules shall incorporate provisions by which the  
 940 offender's ability to pay is linked to an established written  
 941 payment plan. Funds collected from felony offenders may be used  
 942 to offset costs of the Department of Corrections associated with  
 943 community supervision programs, subject to appropriation by the  
 944 Legislature.

945 2. In addition to any other contribution or surcharge  
 946 imposed by this section, each felony offender assessed under  
 947 this paragraph shall pay a \$2-per-month surcharge to the

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948 department. The surcharge shall be deemed to be paid only after  
 949 the full amount of any monthly payment required by the  
 950 established written payment plan has been collected by the  
 951 department. These funds shall be used by the department to pay  
 952 for correctional probation officers' training and equipment,  
 953 including radios, and firearms training, firearms, and attendant  
 954 equipment necessary to train and equip officers who choose to  
 955 carry a concealed firearm while on duty. Nothing in this  
 956 subparagraph shall be construed to limit the department's  
 957 authority to determine who shall be authorized to carry a  
 958 concealed firearm while on duty, or to limit the right of a  
 959 correctional probation officer to carry a personal firearm  
 960 approved by the department.

961 (b) Any person placed on misdemeanor probation by a county  
 962 court must contribute not less than \$40 per month, as decided by  
 963 the sentencing court, to the court-approved public or private  
 964 entity providing misdemeanor supervision.

965 Section 24. Subsection (1) of section 948.04, Florida  
 966 Statutes, is amended to read:

967 948.04 Period of probation; duty of probationer; early  
 968 termination.--

969 (1) Defendants found guilty of felonies who are placed on  
 970 probation shall be under supervision not to exceed 2 years  
 971 unless otherwise specified by the court. No defendant placed on  
 972 probation pursuant to s. 948.012(1) ~~948.01(6)~~ or s. 948.034 is  
 973 subject to the probation limitations of this subsection. A  
 974 defendant who is placed on probation or community control for a  
 975 violation of chapter 794 or chapter 827 is subject to the  
 976 maximum level of supervision provided by the supervising agency,

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977 and that supervision shall continue through the full term of the  
 978 court-imposed probation or community control.

979 Section 25. Paragraph (c) of subsection (17) of section  
 980 440.02, Florida Statutes, is amended to read:

981 440.02 Definitions.--When used in this chapter, unless the  
 982 context clearly requires otherwise, the following terms shall  
 983 have the following meanings:

984 (17)

985 (c) "Employment" does not include service performed by or  
 986 as:

987 1. Domestic servants in private homes.

988 2. Agricultural labor performed on a farm in the employ of  
 989 a bona fide farmer, or association of farmers, that employs 5 or  
 990 fewer regular employees and that employs fewer than 12 other  
 991 employees at one time for seasonal agricultural labor that is  
 992 completed in less than 30 days, provided such seasonal  
 993 employment does not exceed 45 days in the same calendar year.  
 994 The term "farm" includes stock, dairy, poultry, fruit, fur-  
 995 bearing animals, fish, and truck farms, ranches, nurseries, and  
 996 orchards. The term "agricultural labor" includes field foremen,  
 997 timekeepers, checkers, and other farm labor supervisory  
 998 personnel.

999 3. Professional athletes, such as professional boxers,  
 1000 wrestlers, baseball, football, basketball, hockey, polo, tennis,  
 1001 jai alai, and similar players, and motorsports teams competing  
 1002 in a motor racing event as defined in s. 549.08.

1003 4. Labor under a sentence of a court to perform community  
 1004 services as provided in s. 316.193.

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1005 5. State prisoners or county inmates, except those  
 1006 performing services for private employers or those enumerated in  
 1007 s. 948.036(1) ~~948.03(8)(a)~~.

1008 Section 26. Paragraph (b) of subsection (3) of section  
 1009 775.21, Florida Statutes, is amended to read:

1010 775.21 The Florida Sexual Predators Act; definitions;  
 1011 legislative findings, purpose, and intent; criteria;  
 1012 designation; registration; community and public notification;  
 1013 immunity; penalties.--

1014 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE  
 1015 INTENT.--

1016 (b) The high level of threat that a sexual predator  
 1017 presents to the public safety, and the long-term effects  
 1018 suffered by victims of sex offenses, provide the state with  
 1019 sufficient justification to implement a strategy that includes:

1020 1. Incarcerating sexual predators and maintaining adequate  
 1021 facilities to ensure that decisions to release sexual predators  
 1022 into the community are not made on the basis of inadequate  
 1023 space.

1024 2. Providing for specialized supervision of sexual  
 1025 predators who are in the community by specially trained  
 1026 probation officers with low caseloads, as described in ss.  
 1027 947.1405(7) and 948.30 ~~948.03(5)~~. The sexual predator is subject  
 1028 to specified terms and conditions implemented at sentencing or  
 1029 at the time of release from incarceration, with a requirement  
 1030 that those who are financially able must pay all or part of the  
 1031 costs of supervision.

1032 3. Requiring the registration of sexual predators, with a  
 1033 requirement that complete and accurate information be maintained

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1034 and accessible for use by law enforcement authorities,  
 1035 communities, and the public.

1036 4. Providing for community and public notification  
 1037 concerning the presence of sexual predators.

1038 5. Prohibiting sexual predators from working with  
 1039 children, either for compensation or as a volunteer.

1040 Section 27. Paragraph (b) of subsection (2) of section  
 1041 812.0155, Florida Statutes, is amended to read:

1042 812.0155 Suspension of driver's license following an  
 1043 adjudication of guilt for theft.--

1044 (2) The court may revoke, suspend, or withhold issuance of  
 1045 a driver's license of a person less than 18 years of age who  
 1046 violates s. 812.014 or s. 812.015 as an alternative to  
 1047 sentencing the person to:

1048 (b) Probation as defined in s. 985.03, commitment to the  
 1049 Department of Juvenile Justice, probation as defined in chapter  
 1050 948 ~~s. 948.01~~, community control, or incarceration, if the  
 1051 person is convicted as an adult of such violation and has not  
 1052 previously been convicted of or adjudicated delinquent for any  
 1053 criminal offense, regardless of whether adjudication was  
 1054 withheld.

1055 Section 28. Section 921.0017, Florida Statutes, is amended  
 1056 to read:

1057 921.0017 Credit upon recommitment of offender serving  
 1058 split sentence.--Effective for offenses committed on or after  
 1059 January 1, 1994, if an offender's probation or community control  
 1060 is revoked and the offender is serving a split sentence pursuant  
 1061 to s. 948.012 ~~948.01~~, upon recommitment to the Department of  
 1062 Corrections, the court shall order credit for time served in

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1063 state prison or county jail only, without considering any type  
 1064 of gain-time earned before release to supervision, or any type  
 1065 of sentence reduction granted to avoid prison overcrowding,  
 1066 including, but not limited to, any sentence reduction resulting  
 1067 from administrative gain-time, provisional credits, or control  
 1068 release. The court shall determine the amount of jail-time  
 1069 credit to be awarded for time served between the date of arrest  
 1070 as a violator and the date of recommitment, and shall direct the  
 1071 Department of Corrections to compute and apply credit for all  
 1072 other time served previously on the prior sentence for the  
 1073 offense for which the offender is being recommitted. This  
 1074 section does not affect or limit the department's authority to  
 1075 forfeit gain-time under ss. 944.28(1) and 948.06(7).

1076 Section 29. Paragraph (a) of subsection (1) of section  
 1077 921.187, Florida Statutes, is amended to read:

1078 921.187 Disposition and sentencing; alternatives;  
 1079 restitution.--

1080 (1) The alternatives provided in this section for the  
 1081 disposition of criminal cases shall be used in a manner that  
 1082 will best serve the needs of society, punish criminal offenders,  
 1083 and provide the opportunity for rehabilitation.

1084 (a) If the offender does not receive a state prison  
 1085 sentence, the court may:

1086 1. Impose a split sentence whereby the offender is to be  
 1087 placed on probation upon completion of any specified period of  
 1088 such sentence, which period may include a term of years or less.

1089 2. Make any other disposition that is authorized by law.

1090 3. Place the offender on probation with or without an  
 1091 adjudication of guilt pursuant to s. 948.01.

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1092 4. Impose a fine and probation pursuant to s. 948.011 when  
 1093 the offense is punishable by both a fine and imprisonment and  
 1094 probation is authorized.

1095 5. Place the offender into community control requiring  
 1096 intensive supervision and surveillance pursuant to chapter 948.

1097 6. Impose, as a condition of probation or community  
 1098 control, a period of treatment which shall be restricted to a  
 1099 county facility, a Department of Corrections probation and  
 1100 restitution center, a probation program drug punishment  
 1101 treatment community, or a community residential or  
 1102 nonresidential facility, excluding a community correctional  
 1103 center as defined in s. 944.026, which is owned and operated by  
 1104 any qualified public or private entity providing such services.  
 1105 Before admission to such a facility, the court shall obtain an  
 1106 individual assessment and recommendations on the appropriate  
 1107 treatment needs, which shall be considered by the court in  
 1108 ordering such placements. Placement in such a facility, except  
 1109 for a county residential probation facility, may not exceed 364  
 1110 days. Placement in a county residential probation facility may  
 1111 not exceed 3 years. Early termination of placement may be  
 1112 recommended to the court, when appropriate, by the center  
 1113 supervisor, the supervising probation officer, or the probation  
 1114 program manager.

1115 7. Sentence the offender pursuant to s. 922.051 to  
 1116 imprisonment in a county jail when a statute directs  
 1117 imprisonment in a state prison, if the offender's cumulative  
 1118 sentence, whether from the same circuit or from separate  
 1119 circuits, is not more than 364 days.

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1120 8. Sentence the offender who is to be punished by  
 1121 imprisonment in a county jail to a jail in another county if  
 1122 there is no jail within the county suitable for such prisoner  
 1123 pursuant to s. 950.01.

1124 9. Require the offender to participate in a work-release  
 1125 or educational or technical training program pursuant to s.  
 1126 951.24 while serving a sentence in a county jail, if such a  
 1127 program is available.

1128 10. Require the offender to perform a specified public  
 1129 service pursuant to s. 775.091.

1130 11. Require the offender who violates chapter 893 or  
 1131 violates any law while under the influence of a controlled  
 1132 substance or alcohol to participate in a substance abuse  
 1133 program.

1134 12.a. Require the offender who violates any criminal  
 1135 provision of chapter 893 to pay an additional assessment in an  
 1136 amount up to the amount of any fine imposed, pursuant to ss.  
 1137 938.21 and 938.23.

1138 b. Require the offender who violates any provision of s.  
 1139 893.13 to pay an additional assessment in an amount of \$100,  
 1140 pursuant to ss. 938.25 and 943.361.

1141 13. Impose a split sentence whereby the offender is to be  
 1142 placed in a county jail or county work camp upon the completion  
 1143 of any specified term of community supervision.

1144 14. Impose split probation whereby upon satisfactory  
 1145 completion of half the term of probation, the Department of  
 1146 Corrections may place the offender on administrative probation  
 1147 pursuant to s. 948.013 ~~948.01~~ for the remainder of the term of  
 1148 supervision.



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1149 15. Require residence in a state probation and restitution  
 1150 center or private drug treatment program for offenders on  
 1151 community control or offenders who have violated conditions of  
 1152 probation.

1153 16. Impose any other sanction which is provided within the  
 1154 community and approved as an intermediate sanction by the county  
 1155 public safety coordinating council as described in s. 951.26.

1156 17. Impose, as a condition of community control,  
 1157 probation, or probation following incarceration, a requirement  
 1158 that an offender who has not obtained a high school diploma or  
 1159 high school equivalency diploma or who lacks basic or functional  
 1160 literacy skills, upon acceptance by an adult education program,  
 1161 make a good faith effort toward completion of such basic or  
 1162 functional literacy skills or high school equivalency diploma,  
 1163 as defined in s. 1003.435, in accordance with the assessed adult  
 1164 general education needs of the individual offender.

1165 Section 30. Subsection (6) of section 947.23, Florida  
 1166 Statutes, is amended to read:

1167 947.23 Action of commission upon arrest of parolee.--

1168 (6) Within a reasonable time after the hearing, the  
 1169 commissioner, commissioners, or duly authorized representative  
 1170 of the commission who conducted the hearing shall make findings  
 1171 of fact in regard to the alleged parole violation.

1172 (a) If the hearing was conducted by three or more  
 1173 commissioners, a majority of them shall enter an order  
 1174 determining whether the charges of parole violation have been  
 1175 sustained, based on the findings of fact made by them. By such  
 1176 order they shall revoke the parole and return the parolee to  
 1177 prison to serve the sentence theretofore imposed upon her or

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1178 him, reinstate the original order of parole, order the placement  
 1179 of the parolee into a community control program as set forth in  
 1180 s. 948.10, subject to the terms and conditions specified under  
 1181 s. 948.101, ~~948.03~~, or enter such other order as is proper.

1182 (b) If the hearing was conducted by one or two  
 1183 commissioners or a duly authorized representative of the  
 1184 commission, at least two commissioners shall enter an order  
 1185 determining whether or not the charges of parole violation have  
 1186 been sustained, based on the findings of fact made by the  
 1187 commissioner, commissioners, or duly authorized representative  
 1188 of the commission. The commissioners, by such order, shall  
 1189 revoke the parole and return the parolee to prison to serve the  
 1190 sentence theretofore imposed upon her or him, reinstate the  
 1191 original order of parole, order the placement of the parolee  
 1192 into a community control program as set forth in s. 948.10,  
 1193 subject to the terms and conditions specified under s. 948.101,  
 1194 ~~948.03~~, or enter such other order as is proper.

1195 (c) If the disposition after the revocation hearing is to  
 1196 place the parolee into a community control program, the  
 1197 commission shall be guided by the procedures and requirements  
 1198 provided in chapter 948 which apply to the courts regarding the  
 1199 development and implementation of community control.

1200  
 1201 However, any decision to revoke parole shall be based on a  
 1202 violation of a term or condition specifically enumerated in the  
 1203 parole release order. In a case in which parole is revoked, the  
 1204 majority of the commission or the two commissioners shall make a  
 1205 written statement of the evidence relied on and the reasons for  
 1206 revoking parole.

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1207 Section 31. Section 958.14, Florida Statutes, is amended  
 1208 to read:

1209 958.14 Violation of probation or community control  
 1210 program.--A violation or alleged violation of probation or the  
 1211 terms of a community control program shall subject the youthful  
 1212 offender to the provisions of s. 948.06~~(1)~~. However, no youthful  
 1213 offender shall be committed to the custody of the department for  
 1214 a substantive violation for a period longer than the maximum  
 1215 sentence for the offense for which he or she was found guilty,  
 1216 with credit for time served while incarcerated, or for a  
 1217 technical or nonsubstantive violation for a period longer than 6  
 1218 years or for a period longer than the maximum sentence for the  
 1219 offense for which he or she was found guilty, whichever is less,  
 1220 with credit for time served while incarcerated.

1221 Section 32. For the purpose of incorporating the amendment  
 1222 to section 948.09, Florida Statutes, in references thereto,  
 1223 paragraph (b) of subsection (2) and paragraph(b) of subsection  
 1224 (7) of section 944.4731, Florida Statutes, are reenacted to  
 1225 read:

1226 944.4731 Addiction-Recovery Supervision Program.--

1227 (2)

1228 (b) An offender released under addiction-recovery  
 1229 supervision shall be subject to specified terms and conditions,  
 1230 including payment of the costs of supervision under s. 948.09  
 1231 and any other court-ordered payments, such as child support and  
 1232 restitution. If an offender has received a term of probation or  
 1233 community control to be served after release from incarceration,  
 1234 the period of probation or community control may not be  
 1235 substituted for addiction-recovery supervision and shall follow

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1236 the term of addiction-recovery supervision. A panel of not fewer  
 1237 than two parole commissioners shall establish the terms and  
 1238 conditions of supervision, and the terms and conditions must be  
 1239 included in the supervision order. In setting the terms and  
 1240 conditions of supervision, the parole commission shall weigh  
 1241 heavily the program requirements, including, but not limited to,  
 1242 work at paid employment while participating in treatment and  
 1243 traveling restrictions. The commission shall also determine  
 1244 whether an offender violates the terms and conditions of  
 1245 supervision and whether a violation warrants revocation of  
 1246 addiction-recovery supervision pursuant to s. 947.141. The  
 1247 parole commission shall review the offender's record for the  
 1248 purpose of establishing the terms and conditions of supervision.  
 1249 The parole commission may impose any special conditions it  
 1250 considers warranted from its review of the record. The length of  
 1251 supervision may not exceed the maximum penalty imposed by the  
 1252 court.

1253 (7) While participating in a substance abuse transition  
 1254 housing program, an offender shall:

1255 (b) Pay fees to defray program costs, costs of supervision  
 1256 required under s. 948.09, and any restitution or obligations for  
 1257 child support.

1258 Section 33. For the purpose of incorporating the amendment  
 1259 to section 948.10, Florida Statutes, in a reference thereto,  
 1260 section 947.1747, Florida Statutes, is reenacted to read:

1261 947.1747 Community control as a special condition of  
 1262 parole.--Upon the establishment of an effective parole release  
 1263 date as provided for in ss. 947.1745 and 947.1746, the  
 1264 commission may, as a special condition of parole, require an

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1265 inmate to be placed in the community control program of the  
 1266 Department of Corrections as described in s. 948.10 for a period  
 1267 not exceeding 6 months. In every case in which the commission  
 1268 decides to place an inmate on community control as a special  
 1269 condition of parole, the commission shall provide a written  
 1270 explanation of the reasons for its decision.

1271       Section 34. In the event that any amendment made by the  
 1272 provisions of this act conflicts with any substantive amendment  
 1273 made to this chapter by other legislative enactments passed in  
 1274 the 2004 Regular Session, the provisions of this act shall be  
 1275 subordinate to other enactments, regardless of the order of  
 1276 passage. It is the intent of the Legislature that this act  
 1277 effect no substantive changes to the law.

1278       Section 35. This act shall take effect July 1, 2004.