

By Senator Haridopolos

26-1592-04

1                                   A bill to be entitled  
2           An act relating to the electronic monitoring of  
3           probationers and community controllees;  
4           amending s. 948.03, F.S.; requiring the court  
5           to order the electronic monitoring of certain  
6           sex offenders whose crime is committed on or  
7           after a specified date; amending s. 948.11,  
8           F.S.; requiring the Department of Corrections  
9           to use an electronic monitoring system that  
10          reports the location of a monitored offender  
11          and correlates that information with other  
12          crime data; providing requirements for the  
13          capacity of the monitoring system; requiring a  
14          statewide steering committee to oversee and  
15          evaluate the system; providing an  
16          appropriation; providing an effective date.

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

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20           Section 1. Subsection (5) of section 948.03, Florida  
21 Statutes, is amended to read:22           948.03 Terms and conditions of probation or community  
23 control.--24           (5) Conditions imposed pursuant to this subsection, as  
25 specified in paragraphs (a), and (b), and (c), do not require  
26 oral pronouncement at the time of sentencing and shall be  
27 considered standard conditions of probation or community  
28 control for offenders specified in this subsection.29           (a) Effective for probationers or community  
30 controllees whose crime was committed on or after October 1,  
31 1995, and who are placed under supervision for violation of

1 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court  
2 must impose the following conditions in addition to all other  
3 standard and special conditions imposed:

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

10 2. If the victim was under the age of 18, a  
11 prohibition on living within 1,000 feet of a school, day care  
12 center, park, playground, or other place where children  
13 regularly congregate, as prescribed by the court. The  
14 1,000-foot distance shall be measured in a straight line from  
15 the offender's place of residence to the nearest boundary line  
16 of the school, day care center, park, playground, or other  
17 place where children congregate. The distance may not be  
18 measured by a pedestrian route or automobile route.

19 3. Active participation in and successful completion  
20 of a sex offender treatment program with therapists  
21 specifically trained to treat sex offenders, at the  
22 probationer's or community controllee's own expense. If a  
23 specially trained therapist is not available within a 50-mile  
24 radius of the probationer's or community controllee's  
25 residence, the offender shall participate in other appropriate  
26 therapy.

27 4. A prohibition on any contact with the victim,  
28 directly or indirectly, including through a third person,  
29 unless approved by the victim, the offender's therapist, and  
30 the sentencing court.

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1           5. If the victim was under the age of 18, a  
2 prohibition, until successful completion of a sex offender  
3 treatment program, on unsupervised contact with a child under  
4 the age of 18, unless authorized by the sentencing court  
5 without another adult present who is responsible for the  
6 child's welfare, has been advised of the crime, and is  
7 approved by the sentencing court.

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

12           7. Unless otherwise indicated in the treatment plan  
13 provided by the sexual offender treatment program, a  
14 prohibition on viewing, owning, or possessing any obscene,  
15 pornographic, or sexually stimulating visual or auditory  
16 material, including telephone, electronic media, computer  
17 programs, or computer services that are relevant to the  
18 offender's deviant behavior pattern.

19           8. A requirement that the probationer or community  
20 controllee must submit two specimens of blood or other  
21 approved biological specimens to the Florida Department of Law  
22 Enforcement to be registered with the DNA data bank.

23           9. A requirement that the probationer or community  
24 controllee make restitution to the victim, as ordered by the  
25 court under s. 775.089, for all necessary medical and related  
26 professional services relating to physical, psychiatric, and  
27 psychological care.

28           10. Submission to a warrantless search by the  
29 community control or probation officer of the probationer's or  
30 community controllee's person, residence, or vehicle.

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1           (b) Effective for a probationer or community  
2 controllee whose crime was committed on or after October 1,  
3 1997, and who is placed on sex offender probation for a  
4 violation of chapter 794, s. 800.04, s. 827.071, or s.  
5 847.0145, in addition to any other provision of this  
6 subsection, the court must impose the following conditions of  
7 probation or community control:

8           1. As part of a treatment program, participation at  
9 least annually in polygraph examinations to obtain information  
10 necessary for risk management and treatment and to reduce the  
11 sex offender's denial mechanisms. A polygraph examination must  
12 be conducted by a polygrapher trained specifically in the use  
13 of the polygraph for the monitoring of sex offenders, where  
14 available, and shall be paid by the sex offender. The results  
15 of the polygraph examination shall not be used as evidence in  
16 court to prove that a violation of community supervision has  
17 occurred.

18           2. Maintenance of a driving log and a prohibition  
19 against driving a motor vehicle alone without the prior  
20 approval of the supervising officer.

21           3. A prohibition against obtaining or using a post  
22 office box without the prior approval of the supervising  
23 officer.

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

28           5. Electronic monitoring when deemed necessary by the  
29 community control or probation officer and his or her  
30 supervisor, and ordered by the court at the recommendation of  
31 the Department of Corrections.

1           (c) Effective for a probationer or community  
2 controllee whose crime was committed on or after July 1, 2004,  
3 and who is placed under supervision for a violation of chapter  
4 794, s. 800.04, s. 827.071, or s. 847.0145, the court must  
5 order electronic monitoring in addition to all other standard  
6 and special conditions imposed.

7           Section 2. Section 948.11, Florida Statutes, is  
8 amended to read:

9           948.11 Electronic monitoring devices.--

10           (1) Pursuant to chapter 287, the department shall  
11 issue a request for proposal for electronic monitoring devices  
12 to be used ~~utilized~~ by the department for purposes of  
13 electronic monitoring under this section or any other section  
14 of law which authorizes electronic monitoring. Electronic  
15 monitoring devices certified for use by the department must be  
16 licensed by the FCC, must be capable of maintaining full  
17 operation on a backup power source for 8 hours, and must meet  
18 such other necessary and vital specifications as may be set by  
19 the department for tamper-alert, efficient, and economical  
20 usage. The provisions of this section do not apply to passive  
21 devices.

22           (2) The department shall use a system of electronic  
23 monitoring that identifies the location of a monitored  
24 offender and timely reports the offender's presence near a  
25 crime scene, entrance into a prohibited area, or departure  
26 from specified geographical limitations.

27           (a) The system shall be designed and executed in such  
28 a manner so that it contains all data concerning criminal  
29 incidents available throughout the state, including detailed  
30 geographical inclusion and exclusion zones if a monitored  
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1 person is lawfully prohibited from leaving or entering certain  
2 locations.

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

9 1. Timely alerts and reports to the Department of  
10 Corrections when a supervised offender enters or leaves an  
11 inclusion or exclusion zone; and

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

15  
16 The supervising agency shall determine whether reporting of  
17 location and correlation with crime data shall be real time or  
18 delayed, and the length of delay, depending upon the  
19 seriousness of the monitored person's offense or offenses.

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

24 1. All convicted sex offenders who may lawfully be  
25 required to submit to electronic monitoring. If more than  
26 1,000 offenders are subject to this requirement, the  
27 Department of Corrections shall determine which offenders to  
28 monitor based upon risk-assessment criteria.

29 2. If fewer than 1,000 convicted sex offenders may  
30 lawfully be required to submit to electronic monitoring, the  
31 remainder of the 1,000 tracked offenders shall be offenders

1 under the jurisdiction of the Department of Corrections who  
2 are likely to commit sexual offenses or violent crimes and who  
3 may lawfully be required to submit to electronic monitoring.  
4 The Department of Corrections shall determine which offenders  
5 to monitor, based upon risk-assessment criteria.

6 (d) A statewide steering committee, comprised of  
7 representatives of the Office of the Attorney General, the  
8 Department of Law Enforcement, the Department of Corrections,  
9 the Parole Commission, sheriffs' offices, police departments,  
10 and other criminal justice officials, as deemed appropriate,  
11 shall oversee and guide the monitoring system and provide for  
12 project evaluation.

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

18 Section 4. This act shall take effect upon becoming a  
19 law.

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22 SENATE SUMMARY

23 Requires that the court order electronic monitoring of  
24 certain sex offenders whose crime is committed on or  
25 after July 1, 2004. Provides requirements for the  
26 Department of Corrections in establishing an electronic  
27 monitoring system that reports the location of a  
28 monitored offender and correlates that information with  
29 other crime data. Provides for a statewide steering  
30 committee to oversee and evaluate the monitoring system.  
31 (See bill for details.)