

1                                   A bill to be entitled  
2           An act relating to probation and community  
3           control; amending s. 944.473, F.S.; providing  
4           additional criteria for mandated participation  
5           in a substance abuse program; requiring that  
6           substance abuse treatment be considered a basic  
7           support service in the release orientation  
8           program for certain offenders; amending s.  
9           944.705, F.S.; requiring that substance abuse  
10          treatment be included as part of the release  
11          orientation program for certain inmates;  
12          amending s. 947.22, F.S.; requiring law  
13          enforcement officers to assist probation  
14          officers in making warrantless arrests;  
15          amending s. 948.03, F.S., relating to terms and  
16          conditions of probation or community control;  
17          providing additional requirements for offenders  
18          who have been incarcerated for controlled  
19          substance violations; providing additional  
20          requirements for random substance abuse  
21          testing; authorizing the Department of  
22          Corrections to order electronic monitoring as a  
23          reporting requirement; amending s. 948.032,  
24          F.S.; clarifying the responsibilities of the  
25          defendant to prove his or her ability to pay  
26          restitution; amending s. 948.06, F.S.;  
27          requiring law enforcement officers to assist  
28          probation officers in making warrantless  
29          arrests; providing for tolling of a  
30          probationary period upon a warrantless arrest;  
31          authorizing use of a notification letter of a

1 technical violation of a term of probation or  
2 community control; requiring the department to  
3 provide the court with recommendations  
4 concerning the disposition of an offender who  
5 has violated probation or community control;  
6 specifying the factors to be considered by the  
7 department in making its recommendation;  
8 requiring submission of a statement regarding  
9 the offender's ability to pay; creating s.  
10 948.061, F.S.; requiring the Department of  
11 Corrections to develop a risk assessment and  
12 alert system to monitor certain offenders  
13 placed on probation or community control;  
14 requiring increased supervision of such  
15 offenders under certain circumstances;  
16 requiring that information be provided to the  
17 court by the correctional probation officer;  
18 creating s. 948.062, F.S.; requiring the  
19 Department of Corrections to review the  
20 circumstances of certain arrests of offenders  
21 on probation or community control; requiring  
22 the Office of Program Policy Analysis and  
23 Government Accountability to analyze the  
24 reviews and report to the President of the  
25 Senate and the Speaker of the House of  
26 Representatives; providing legislative findings  
27 with respect to the necessity for increased  
28 supervision of high-risk offenders who violate  
29 community supervision; requesting that the  
30 Supreme Court amend a Rule of Criminal  
31 Procedure to require that certain offenders

1 arrested for a violation of probation or  
2 community control be detained while awaiting a  
3 hearing on the violation; creating s. 903.0473,  
4 F.S.; permitting the court to order appearance  
5 bonds for probationers; amending s. 948.09,  
6 F.S.; authorizing the department to contract  
7 for collection of electronic monitoring fees;  
8 providing effective dates.  
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10 Be It Enacted by the Legislature of the State of Florida:  
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12 Section 1. Subsection (2) of section 944.473, Florida  
13 Statutes, is amended to read:

14 944.473 Inmate substance abuse testing program.--

15 (2) SUBSTANCE ABUSE TREATMENT PROGRAMS.--

16 (a) An inmate who meets the criteria established by  
17 the department shall participate in substance abuse program  
18 services when such services are available. A right to  
19 substance abuse program services is not stated, intended, or  
20 otherwise implied by this chapter.

21 (b) Upon arrival at a department's reception center  
22 for initial processing, each inmate shall be screened and  
23 assessed to determine if the inmate meets the department's  
24 criteria for mandated participation in a substance-abuse  
25 program. Criteria for mandated substance abuse program  
26 services shall be based on:

- 27 1. The presence of a diagnosed psychoactive substance  
28 dependence or use disorder;  
29 2. The severity of the addiction;  
30 3. A history of criminal behavior related to substance  
31 abuse;

1           4. A recommendation by a sentencing authority for  
2 substance abuse program services;

3           5. Unsuccessful participation in community-based  
4 substance abuse services;

5           6. Sentencing by a drug court or drug division; ~~and~~

6           7. Previous substantive or technical violations  
7 related to substance abuse while on community supervision; and

8           ~~8.7.~~ Other classification or program criteria that the  
9 department finds will ensure security and optimal program  
10 placement.

11           (c) An inmate who has been identified as needing  
12 substance abuse treatment pursuant to this section and who has  
13 not been provided an opportunity to receive such treatment  
14 while incarcerated shall be automatically identified by the  
15 department as needing substance abuse treatment as a basic  
16 support service in the release orientation program pursuant to  
17 s. 944.705.

18           ~~(d)(e)~~ When selecting contract providers to administer  
19 substance abuse treatment programs, the department shall make  
20 every effort to consider qualified faith-based service groups  
21 on an equal basis with other private organizations.

22           Section 2. Section 944.705, Florida Statutes, is  
23 amended to read:

24           944.705 Release orientation program.--

25           (1) The department shall provide participation in a  
26 standardized release orientation program to every eligible  
27 inmate.

28           (2) The release orientation program instruction must  
29 include, but is not limited to:

30           (a) Employment skills.

31           (b) Money management skills.

1 (c) Personal development and planning.

2 (d) Special needs.

3 (e) Community reentry concerns.

4 (f) Community reentry support.

5 (g) Any other appropriate instruction to ensure the  
6 inmate's successful reentry into the community.

7 (3) Any inmate who claims to be a victim of domestic  
8 violence as defined in s. 741.28 shall receive, as part of the  
9 release orientation program, referral to the nearest domestic  
10 violence center certified under chapter 39.

11 (4) Any inmate who demonstrates a history of substance  
12 abuse or addiction shall receive as part of the release  
13 orientation program referral to the nearest or most  
14 appropriate community substance abuse program.

15 ~~(5)(4)~~ The department shall conduct a needs assessment  
16 of every inmate to determine which, if any, basic support  
17 services the inmate needs after release. Substance abuse  
18 treatment shall be deemed a basic support service for any  
19 inmate who has been identified as needing substance abuse  
20 treatment pursuant to s. 944.473 and who has not been provided  
21 an opportunity to receive such treatment while incarcerated.

22 ~~(6)(5)~~ The department may contract with public or  
23 private entities, including faith-based service groups, for  
24 the provision of all or part of the services pursuant to this  
25 section.

26 ~~(7)(6)~~(a) The department shall notify every inmate, in  
27 no less than 18-point type in the inmate's release documents,  
28 that the inmate may be sentenced pursuant to s. 775.082(9) if  
29 the inmate commits any felony offense described in s.  
30 775.082(9) within 3 years after the inmate's release. This  
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1 notice must be prefaced by the word "WARNING" in boldfaced  
2 type.

3 (b) Nothing in this section precludes the sentencing  
4 of a person pursuant to s. 775.082(9), nor shall evidence that  
5 the department failed to provide this notice prohibit a person  
6 from being sentenced pursuant to s. 775.082(9). The state  
7 shall not be required to demonstrate that a person received  
8 any notice from the department in order for the court to  
9 impose a sentence pursuant to s. 775.082(9).

10 Section 3. Subsection (2) of section 947.22, Florida  
11 Statutes, is amended to read:

12 947.22 Authority to arrest parole violators with or  
13 without warrant.--

14 (2) Any parole and probation officer, when she or he  
15 has reasonable ground to believe that a parolee, control  
16 releasee, or conditional releasee has violated the terms and  
17 conditions of her or his parole, control release, or  
18 conditional release in a material respect, has the right to  
19 arrest or request any law enforcement officer to arrest the  
20 releasee or parolee without warrant and bring her or him  
21 forthwith before one or more commissioners or a duly  
22 authorized representative of the Parole Commission or Control  
23 Release Authority; and proceedings shall thereupon be had as  
24 provided herein when a warrant has been issued by a member of  
25 the commission or authority or a duly authorized  
26 representative of the commission or authority. Local law  
27 enforcement officers shall assist the probation officer, upon  
28 request, in making warrantless arrests, taking the offender  
29 into custody and transporting the offender to the county jail.

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1           Section 4. Subsections (1) and (3) of section 948.03,  
2 Florida Statutes, as amended by section 136 of chapter  
3 2003-402, Laws of Florida, are amended to read:

4           948.03 Terms and conditions of probation or community  
5 control.--

6           (1) The court shall determine the terms and conditions  
7 of probation or community control. Conditions specified in  
8 paragraphs ~~(a)-(n)(a)-(m)~~ do not require oral pronouncement  
9 at the time of sentencing and may be considered standard  
10 conditions of probation. Conditions specified in paragraphs  
11 ~~(a)-(n)(a)-(m)~~ and (2)(a) do not require oral pronouncement  
12 at sentencing and may be considered standard conditions of  
13 community control. These conditions may include among them  
14 the following, that the probationer or offender in community  
15 control shall:

16           (a) Report to the probation officers ~~and parole~~  
17 ~~supervisors~~ as directed. The offender shall provide to the  
18 probation officer a full, truthful, and complete written  
19 report each month. The report must include, but need not be  
20 limited to, the offender's employment status, monthly  
21 earnings, and financial ability. At the discretion of the  
22 department, the reporting requirement may include electronic  
23 monitoring.

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

26           (c) Work faithfully at suitable employment insofar as  
27 may be possible.

28           (d) Remain within a specified place.

29           (e) Make reparation or restitution to the aggrieved  
30 party for the damage or loss caused by his or her offense in  
31 an amount to be determined by the court. The court shall make

1 such reparation or restitution a condition of probation,  
2 unless it determines that clear and compelling reasons exist  
3 to the contrary. If the court does not order restitution, or  
4 orders restitution of only a portion of the damages, as  
5 provided in s. 775.089, it shall state on the record in detail  
6 the reasons therefor.

7 (f) Effective July 1, 1994, and applicable for  
8 offenses committed on or after that date, make payment of the  
9 debt due and owing to a county or municipal detention facility  
10 under s. 951.032 for medical care, treatment, hospitalization,  
11 or transportation received by the felony probationer while in  
12 that detention facility. The court, in determining whether to  
13 order such repayment and the amount of such repayment, shall  
14 consider the amount of the debt, whether there was any fault  
15 of the institution for the medical expenses incurred, the  
16 financial resources of the felony probationer, the present and  
17 potential future financial needs and earning ability of the  
18 probationer, and dependents, and other appropriate factors.

19 (g) Support his or her legal dependents to the best of  
20 his or her ability.

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

24 (i) Pay any application fee assessed under s.  
25 27.52(2)(a) and attorney's fees and costs assessed under s.  
26 938.29, subject to modification based on change of  
27 circumstances.

28 (j) Not associate with persons engaged in criminal  
29 activities.

30 (k)1. Submit to random testing as directed by the  
31 correctional probation officer or the professional staff of



1 the treatment center where he or she is receiving treatment to  
2 determine the presence or use of alcohol or controlled  
3 substances.

4 2. If the offense was a controlled substance violation  
5 and the period of probation immediately follows a period of  
6 incarceration in the state correction system or if the offense  
7 was a controlled substance violation and the offender had a  
8 previous term of imprisonment for a  
9 controlled-substance-related offense, the conditions shall  
10 include a requirement that the offender submit to substance  
11 abuse evaluation and comply with recommendations for  
12 treatment, and submit to random substance abuse testing  
13 intermittently throughout the term of supervision, upon the  
14 direction of the correctional probation officer as defined in  
15 s. 943.10(3).

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

19 (m) Be prohibited from using intoxicants to excess or  
20 using or possessing a controlled substance or drug ~~any drugs~~  
21 ~~or narcotics~~ unless prescribed by a physician. The probationer  
22 or community controllee shall not knowingly visit places where  
23 intoxicants, drugs, or other dangerous substances are  
24 unlawfully sold, dispensed, or used.

25 (n) Remain at liberty without violating the law.

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

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1            ~~(p)(e)~~ Pay not more than \$1 per month during the term  
2 of probation or community control to a nonprofit organization  
3 established for the sole purpose of supplementing the  
4 rehabilitative efforts of the Department of Corrections.

5            (3)(a)1. The Department of Corrections may, at its  
6 discretion, instruct an offender to submit to electronic  
7 monitoring ~~electronically monitor an offender sentenced to~~  
8 ~~community control. In such cases, the electronic monitoring~~  
9 shall be considered to be supervisory instructions  
10 implementing the standard condition of supervision requiring  
11 the offender to report to probation officers as directed. This  
12 subparagraph does not limit the judge's discretion to order  
13 electronic monitoring in appropriate cases.

14            2. The Department of Corrections shall electronically  
15 monitor an offender sentenced to criminal quarantine community  
16 control 24 hours per day.

17            (b) Any offender placed on community control who  
18 violates the terms and conditions of community control and is  
19 restored to community control may be supervised by means of an  
20 electronic monitoring device or system.

21            (c) For those offenders being electronically  
22 monitored, the Department of Corrections shall develop  
23 procedures to determine, investigate, and report the  
24 offender's noncompliance with the terms and conditions of  
25 sentence 24 hours per day. All reports of noncompliance shall  
26 be immediately investigated by a community control officer.

27            (d) The Department of Corrections may contract with  
28 local law enforcement agencies to assist in the location and  
29 apprehension of offenders who are in noncompliance as reported  
30 by the electronic monitoring system. This contract is intended  
31 to provide the department a means for providing immediate

1 investigation of noncompliance reports, especially after  
2 normal office hours.

3 Section 5. Section 948.032, Florida Statutes, is  
4 amended to read:

5 948.032 Condition of probation; restitution.--If a  
6 defendant is placed on probation, any restitution ordered  
7 under s. 775.089 shall be a condition of the probation. The  
8 court may revoke probation if the defendant fails to comply  
9 with the order. In determining whether to revoke probation,  
10 the court shall consider the defendant's employment status,  
11 earning ability, and financial resources; the willfulness of  
12 the defendant's failure to pay; and any other special  
13 circumstances that may have a bearing on the defendant's  
14 ability to pay. As provided in s. 948.06(5), it shall be the  
15 responsibility of the defendant to prove his or her inability  
16 to pay restitution ordered by the court.

17 Section 6. Effective July 1, 2004, and applicable to  
18 offenses or violations committed on or after that date,  
19 section 948.06, Florida Statutes, is amended to read:

20 948.06 Violation of probation or community control;  
21 revocation; modification; continuance; failure to pay  
22 restitution or cost of supervision.--

23 (1)(a) Whenever within the period of probation or  
24 community control there are reasonable grounds to believe that  
25 a probationer or offender in community control has violated  
26 his or her probation or community control in a material  
27 respect, any law enforcement officer who is aware of the  
28 probationary or community control status of the probationer or  
29 offender in community control or any parole or probation  
30 supervisor may arrest or request any county or municipal law  
31 enforcement officer to arrest such probationer or offender

1 without warrant wherever found and forthwith return him or her  
2 to the court granting such probation or community control.  
3 Local law enforcement officers shall assist the probation  
4 officer, upon request, in making warrantless arrests, taking  
5 offenders into custody, and transporting offenders to the  
6 county jail.

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

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

15 (d) Upon the filing of an affidavit alleging a  
16 violation of probation or community control and following  
17 issuance of a warrant under s. 901.02 or upon a warrantless  
18 arrest, the probationary period is tolled until the court  
19 enters a ruling on the violation. Notwithstanding the tolling  
20 of probation as provided in this subsection, the court shall  
21 retain jurisdiction over the offender for any violation of the  
22 conditions of probation or community control that is alleged  
23 to have occurred during the tolling period. The probation  
24 officer is permitted to continue to supervise any offender who  
25 remains available to the officer for supervision until the  
26 supervision expires pursuant to the order of probation or  
27 community control or until the court revokes or terminates the  
28 probation or community control, whichever comes first.

29 (2)(a) The court, upon the probationer or offender  
30 being brought before it, shall advise him or her of such  
31 charge of violation and, if such charge is admitted to be

1 true, may forthwith revoke, modify, or continue the probation  
2 or community control or place the probationer into a community  
3 control program.

4 (b) If probation or community control is revoked, the  
5 court shall adjudge the probationer or offender guilty of the  
6 offense charged and proven or admitted, unless he or she has  
7 previously been adjudged guilty, and impose any sentence which  
8 it might have originally imposed before placing the  
9 probationer on probation or the offender into community  
10 control.

11 (c) If such violation of probation or community  
12 control is not admitted by the probationer or offender, the  
13 court may commit him or her or release him or her with or  
14 without bail to await further hearing, or it may dismiss the  
15 charge of probation or community control violation.

16 (d) If such charge is not at that time admitted by the  
17 probationer or offender and if it is not dismissed, the court,  
18 as soon as may be practicable, shall give the probationer or  
19 offender an opportunity to be fully heard on his or her behalf  
20 in person or by counsel.

21 (e) After such hearing, the court may revoke, modify,  
22 or continue the probation or community control or place the  
23 probationer into community control. If such probation or  
24 community control is revoked, the court shall adjudge the  
25 probationer or offender guilty of the offense charged and  
26 proven or admitted, unless he or she has previously been  
27 adjudged guilty, and impose any sentence which it might have  
28 originally imposed before placing the probationer or offender  
29 on probation or into community control.

30 (f) Notwithstanding s. 775.082, when a period of  
31 probation or community control has been tolled, upon

1 revocation or modification of the probation or community  
2 control, the court may impose a sanction with a term that when  
3 combined with the amount of supervision served and tolled,  
4 exceeds the term permissible pursuant to s. 775.082 for a term  
5 up to the amount of the tolled period supervision.

6 (g) If the court dismisses an affidavit alleging a  
7 violation of probation or community control, the offender's  
8 probation or community control shall continue as previously  
9 imposed, and the offender shall receive credit for all tolled  
10 time against his or her term of probation or community  
11 control.

12 (h) The chief judge of each judicial circuit may  
13 direct the department to use a notification letter of a  
14 technical violation in lieu of a violation report, affidavit,  
15 and warrant when the violation is not a new felony or  
16 misdemeanor offense. Such direction must be in writing and  
17 specify the types of specific violations which are to be  
18 reported by a notification letter of a technical violation,  
19 any exceptions, and the required process for submission. At  
20 the direction of the chief judge, the department shall send  
21 the notification letter of a technical violation to the court.

22 (i)1. For each case in which the offender admits to  
23 committing a violation or is found to have committed a  
24 violation, the department shall provide the court with a  
25 recommendation as to disposition by the court. The department  
26 shall make a determination as to the reasons for its  
27 recommendation, and shall include an evaluation of the  
28 following factors:

29 a. The appropriateness or inappropriateness of  
30 community facilities, programs, or services for treatment or  
31 supervision of the offender.

1           b. The ability or inability of the department to  
2 provide an adequate level of supervision of the offender in  
3 the community and a statement of what constitutes an adequate  
4 level of supervision.

5           c. The existence of other treatment modalities that  
6 the offender could use but that do not currently exist in the  
7 community.

8           2. The report must also include a summary of the  
9 offender's prior supervision history, including the offender's  
10 prior participation in treatment, educational, and vocational  
11 programs, and any other actions or circumstances of the  
12 offender which are relevant.

13           3. The court may specify whether the recommendation or  
14 report must be oral or written and may waive the requirement  
15 for a report in an individual case or a class of cases. This  
16 paragraph does not prohibit the department from making any  
17 other report or recommendation that is provided for by law or  
18 requested by the court.

19           ~~(3)(2)~~(a) When any state or local law enforcement  
20 agency investigates or arrests a person for committing, or  
21 attempting, soliciting, or conspiring to commit, a violation  
22 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,  
23 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement  
24 agency shall contact the Department of Corrections to verify  
25 whether the person under investigation or under arrest is on  
26 probation, community control, parole, conditional release, or  
27 control release.

28           (b) If the law enforcement agency finds that the  
29 person under investigation or under arrest is on probation,  
30 community control, parole, conditional release, or control  
31 release, the law enforcement agency shall immediately notify

1 the person's probation officer or release supervisor of the  
2 investigation or the arrest.

3 ~~(4)(3)~~ When the court imposes a subsequent term of  
4 supervision following a revocation of probation or community  
5 control, it shall not provide credit for time served while on  
6 probation or community control toward any subsequent term of  
7 probation or community control. However, the court may not  
8 impose a subsequent term of probation or community control  
9 which, when combined with any amount of time served on  
10 preceding terms of probation or community control for offenses  
11 before the court for sentencing, would exceed the maximum  
12 penalty allowable as provided by s. 775.082. No part of the  
13 time that the defendant is on probation or in community  
14 control shall be considered as any part of the time that he or  
15 she shall be sentenced to serve.

16 ~~(5)(4)~~ Notwithstanding any other provision of this  
17 section, a probationer or an offender in community control who  
18 is arrested for violating his or her probation or community  
19 control in a material respect may be taken before the court in  
20 the county or circuit in which the probationer or offender was  
21 arrested. That court shall advise him or her of such charge of  
22 a violation and, if such charge is admitted, shall cause him  
23 or her to be brought before the court which granted the  
24 probation or community control.

25 (a) If such violation is not admitted by the  
26 probationer or offender, the court may commit him or her or  
27 release him or her with or without bail to await further  
28 hearing. The court, as soon as is practicable, shall give the  
29 probationer or offender an opportunity to be fully heard on  
30 his or her behalf in person or by counsel.

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1           **(b)** After such hearing, the court shall make findings  
2 of fact and forward the findings to the court which granted  
3 the probation or community control and to the probationer or  
4 offender or his or her attorney. The findings of fact by the  
5 hearing court are binding on the court which granted the  
6 probation or community control. Upon the probationer or  
7 offender being brought before it, the court which granted the  
8 probation or community control may revoke, modify, or continue  
9 the probation or community control or may place the  
10 probationer into community control as provided in this  
11 section.

12           ~~(6)(5)~~ Whenever the department submits a violation  
13 report to the court for failure to pay court-ordered  
14 obligations, the department shall include a statement by the  
15 probationer or offender on community control concerning his or  
16 her ability to pay. However, the violation report may be  
17 submitted without such statement if it cannot be obtained  
18 through department efforts. In any hearing in which the  
19 failure of a probationer or offender in community control to  
20 pay restitution or the cost of supervision as provided in s.  
21 948.09, as directed, is established by the state, if the  
22 probationer or offender asserts his or her inability to pay  
23 restitution or the cost of supervision, it is incumbent upon  
24 the probationer or offender to prove by clear and convincing  
25 evidence that he or she does not have the present resources  
26 available to pay restitution or the cost of supervision  
27 despite sufficient bona fide efforts legally to acquire the  
28 resources to do so. If the probationer or offender cannot pay  
29 restitution or the cost of supervision despite sufficient bona  
30 fide efforts, the court shall consider alternate measures of  
31 punishment other than imprisonment. Only if alternate measures

1 are not adequate to meet the state's interests in punishment  
2 and deterrence may the court imprison a probationer or  
3 offender in community control who has demonstrated sufficient  
4 bona fide efforts to pay restitution or the cost of  
5 supervision.

6 (7)~~(6)~~ Any parolee in a community control program who  
7 has allegedly violated the terms and conditions of such  
8 placement is subject to the provisions of ss. 947.22 and  
9 947.23.

10 (8)~~(7)~~ Any provision of law to the contrary  
11 notwithstanding, whenever probation, community control, or  
12 control release, including the probationary, community control  
13 portion of a split sentence, is violated and the probation or  
14 community control is revoked, the offender, by reason of his  
15 or her misconduct, shall be deemed to have forfeited all  
16 gain-time or commutation of time for good conduct, as provided  
17 by law, earned up to the date of his or her release on  
18 probation, community control, or control release. This  
19 subsection does not deprive the prisoner of his or her right  
20 to gain-time or commutation of time for good conduct, as  
21 provided by law, from the date on which the prisoner is  
22 returned to prison. However, if a prisoner is sentenced to  
23 incarceration following termination from a drug punishment  
24 program imposed as a condition of probation, the sentence may  
25 include incarceration without the possibility of gain-time or  
26 early release for the period of time remaining in his or her  
27 treatment program placement term.

28 Section 7. Section 948.061, Florida Statutes, is  
29 created to read:  
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1           948.061 Identifying, assessing, and monitoring certain  
2 high-risk offenders on community supervision; providing  
3 cumulative criminal and supervision histories to the court.--

4           (1) By December 1, 2004, the department shall develop  
5 a graduated risk assessment and alert system that continuously  
6 identifies, assesses, and closely monitors the population of  
7 offenders placed on probation or community control who have:

8           (a) Previously been placed on probation or community  
9 control and who have a history of committing multiple  
10 community supervision violations in this state or in other  
11 jurisdictions or who have previously been incarcerated in this  
12 state or in other jurisdictions; and

13           (b) Have experienced more than one of the following  
14 risk factors that could potentially make the offender more  
15 likely to pose a danger to others:

16           1. Attempted suicide or severe depression;

17           2. Marital instability or history of domestic  
18 violence;

19           3. History of substance abuse;

20           4. Unemployment or substantial financial difficulties;

21           5. History of violence, particularly involving  
22 strangers; or

23           6. Any other risk factor identified by the department.

24           (2) Recognizing that there may be a propensity for  
25 these offenders with extensive criminal histories and multiple  
26 risk factors to pose a serious threat to the community, the  
27 department shall consider the cumulative impact of these risk  
28 factors and, if necessary, place these offenders on an  
29 elevated alert status and provide a high level of supervision  
30 for these offenders until the situation stabilizes and the  
31 department no longer believes that the offender poses a threat

1 to others. In providing such supervision and surveillance, the  
2 department shall increase the number of office and home visits  
3 conducted by the correctional probation officer; expand the  
4 number of and type of employment, family, community, and  
5 neighborhood contacts by the correctional probation officer;  
6 increase referrals to available community mental health  
7 facilities and community assistance programs; develop  
8 emergency communication plans and alert systems for law  
9 enforcement agencies and the court in order to quickly detain  
10 the offender in response to a violation; and prioritize its  
11 resources in order to more closely monitor the offender's  
12 activities in an effort to prevent escalating criminal  
13 behavior.

14 (3) In providing criminal history and background  
15 information to the court on these complex and high-risk cases,  
16 the correctional probation officer shall provide to the court  
17 in each report submitted to the court and at every hearing  
18 before the court a clear, complete, and concise cumulative and  
19 integrated chronology of the offender's criminal history and  
20 prior terms of community supervision, including all  
21 substantive or technical violations of community supervision.

22 Section 8. Section 948.062, Florida Statutes, is  
23 created to read:

24 948.062 Reviewing and reporting serious offenses  
25 committed by offenders placed on community supervision.--

26 (1) The department shall review the circumstances  
27 related to offenders placed on community supervision who have  
28 been arrested while on supervision for the following serious  
29 offenses:

30 (a) Any murder as provided in s. 782.04;  
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1        (b) Any sexual battery as provided in s. 794.011 or s.  
2 794.023;

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

5        (d) Any kidnapping, false imprisonment, or luring of a  
6 child as provided in s. 787.01, s. 782.07, or s. 787.025;

7        (e) Any lewd and lascivious battery or lewd and  
8 lascivious molestation as provided in s. 800.04(4) or s.  
9 800.04(5);

10       (f) Any aggravated child abuse as provided in s.  
11 827.03(2);

12       (g) Any robbery with a firearm or other deadly weapon,  
13 home invasion robbery, or carjacking as provided in s.  
14 812.13(2)(a), s. 812.135, or s. 812.133;

15       (h) Any aggravated stalking as provided in s.  
16 784.048(3), (4), or (5);

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

20       (j) Any DUI manslaughter as provided in s.  
21 316.193(3)(c), or vehicular or vessel homicide as provided in  
22 s. 782.071 or s. 787.072, committed by any person under  
23 community supervision for an offense involving death or injury  
24 resulting from a driving incident.

25  
26 The review shall document whether the supervision of the  
27 offender met enumerated rules, policies, and procedures and  
28 whether supervision practices were followed.

29       (2) On an annual basis, the department shall provide  
30 these reviews to the Office of Program Policy Analysis and  
31 Government Accountability. The Office of Program Policy

1 Analysis and Government Accountability shall annually analyze  
2 these reviews and provide a written report to the President of  
3 the Senate and the Speaker of the House of Representatives.  
4 The report must include, at a minimum, any identified systemic  
5 deficiencies in managing high-risk offenders on community  
6 supervision and the judicial disposition of such offenders;  
7 any patterns of noncompliance by correctional probation  
8 officers and any inconsistent or inefficient judicial case  
9 processing for offenders who have violated community  
10 supervision; and recommendations for improving the community  
11 supervision program.

12       Section 9. (1) The 2004 Legislature closely examined  
13 chapter 948, Florida Statutes, to address certain critical  
14 public safety concerns and substantive policy issues involving  
15 offenders who violate probation or community control. The  
16 Legislature has carefully scrutinized the effectiveness of the  
17 state's community supervision system and concluded that the  
18 system should increase the level of supervision of high-risk  
19 offenders who violate community supervision. The Legislature  
20 finds there may be a propensity for such offenders with  
21 extensive criminal histories and multiple risk factors to pose  
22 a serious threat to the community. In addition, the  
23 Legislature finds that the system should consider the  
24 cumulative impact of such histories and factors and quickly  
25 detain offenders alleged to be in violation of community  
26 supervision in order to protect the public and prevent  
27 escalating criminal behavior.

28       (2)(a) Therefore, the Legislature strongly urges the  
29 Florida Supreme Court to amend the concomitant Rule of  
30 Criminal Procedure which sets forth the procedures the lower  
31

1 courts must follow when considering bail in cases of  
2 violations of probation and community control.

3 (b) As the Supreme Court opined in Bernhardt v. State,  
4 288 So. 490 (Fla. 1974), release on bail pending revocation of  
5 probation is not a constitutional right. However, the  
6 Legislature recognizes that it is the prerogative of the  
7 Supreme Court to act in the area of practice and procedure.  
8 The Legislature, therefore, recommends that the Supreme Court  
9 consider making the following revision to Rule 3.790 regarding  
10 bail in certain cases involving a violation of community  
11 supervision.

12 (c) In particular, the Supreme Court is requested to  
13 amend its rule to require that a probationer or community  
14 controllee who is arrested on an alleged violation, regardless  
15 of adjudication in the underlying offense, be detained while  
16 awaiting a hearing before the court that granted the probation  
17 or community control, if the offense for which the probationer  
18 or community controllee is currently on probation or community  
19 control is a forcible felony or if the probationer or  
20 community controllee has previously been convicted of a  
21 forcible felony as provided in section 776.08, Florida  
22 Statutes.

23 Section 10. Section 903.0473, Florida Statutes, is  
24 created to read:

25 903.0473 Probation appearance bond.--As a condition of  
26 any probation, community control, or other court-ordered  
27 community supervision authorized pursuant to chapter 948, the  
28 court may order the posting of a bond to secure the appearance  
29 of the defendant at any subsequent court proceeding. The  
30 appearance bond shall be filed by a bail agent with the  
31 sheriff who shall provide a copy to the clerk of court. Upon

1 72 hours' notice by the court or the clerk of court, the bail  
2 agent shall produce the person on probation, community  
3 control, or other court-ordered community supervision to the  
4 court. The bail agent shall surrender to the sheriff a person  
5 on probation, community control, or court-ordered community  
6 supervision upon notice by the probation officer that the  
7 person has violated the terms of probation, community control,  
8 or court-ordered community supervision. If the bail agent  
9 fails to produce the defendant in court at the time noticed by  
10 the court or the clerk of court, the bond shall be estreated  
11 and forfeited according to the procedures set forth in this  
12 chapter and chapter 648. Failure to appear shall be the sole  
13 grounds for forfeiture and estreatment of the appearance bond.  
14 Where not inconsistent with this subsection, this chapter and  
15 chapter 648 shall regulate the relationship between the bail  
16 agent and probationer.

17 Section 11. Subsection (2) of section 948.09, Florida  
18 Statutes, is amended to read:

19 948.09 Payment for cost of supervision and  
20 rehabilitation.--

21 (2) Any person being electronically monitored by the  
22 department ~~as a result of placement on community control~~ shall  
23 be required to pay as a surcharge an amount that may not  
24 exceed the full cost of the monitoring service in addition to  
25 the cost of supervision fee as directed by the sentencing  
26 court. The department is authorized to contract with a private  
27 entity to provide services necessary to implement or  
28 facilitate the collection of this surcharge and to allow for  
29 payment of a reasonable fee for costs of collection from the  
30 proceeds. The surcharge, less the reasonable fee for costs of  
31 collection, shall be deposited in the Operating Trust Fund to



1 | be used by the department for purchasing and maintaining  
2 | electronic monitoring devices.

3 |           Section 12. Except as otherwise expressly provided in  
4 | this act, this act shall take effect upon becoming a law.

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