

By the Committees on Judiciary; and Criminal Justice

308-2510-04

1 A bill to be entitled
2 An act relating to probation and community
3 control; amending s. 948.001, F.S.; deleting
4 provisions authorizing the Department of
5 Corrections to collect certain fees as a part
6 of administrative probation; amending s.
7 948.01, F.S.; correcting a cross-reference;
8 transferring and renumbering provisions
9 governing probation and community control as s.
10 948.10(10), F.S.; transferring and renumbering
11 provisions authorizing a split sentence of
12 probation or community control and imprisonment
13 as s. 948.012(1), F.S.; prohibiting a private
14 entity from providing probation or supervision
15 services to certain offenders; transferring and
16 renumbering provisions relating to violations
17 of community control as s. 948.10(9), F.S.;
18 transferring and renumbering provisions
19 restricting the placement of certain offenders
20 into community control as s. 948.10(2), F.S.;
21 transferring and renumbering provisions
22 authorizing split sentencing as s. 948.012(2)
23 and (3), F.S.; transferring and renumbering
24 provisions relating to drug offender probation
25 as s. 948.20, F.S.; transferring and
26 renumbering provisions governing community
27 control and criminal quarantine community
28 control as s. 948.101(3), F.S.; transferring
29 and renumbering provisions relating to
30 administration probation as s. 948.013, F.S.;
31 amending s. 948.011, F.S.; clarifying

1 | circumstances under which the court may impose
2 | a fine or place an offender on probation or
3 | community control; amending s. 948.03, F.S.;
4 | conforming cross-references; providing for
5 | submission of blood or other biological
6 | specimens as a standard condition of probation;
7 | transferring and renumbering provisions
8 | relating to intensive supervision and
9 | surveillance as s. 948.101, F.S.; authorizing
10 | the court to impose additional terms or
11 | conditions of community control; providing
12 | certain limitations; transferring and
13 | renumbering provisions governing electronic
14 | monitoring as s. 948.11(2), F.S.; amending s.
15 | 948.11, F.S.; transferring and renumbering
16 | provisions governing the diagnosis, evaluation,
17 | and treatment of certain sex offenders as s.
18 | 948.31, F.S.; transferring and renumbering
19 | provisions governing additional terms and
20 | conditions of probation or community control
21 | for certain sex offenses as s. 948.30, F.S.;
22 | clarifying a requirement for submitting blood
23 | and other specimens; transferring and
24 | renumbering provisions relating to residential
25 | treatment as s. 948.035, F.S.; transferring and
26 | renumbering provisions relating to work
27 | programs as s. 948.036, F.S.; transferring and
28 | renumbering provisions relating to education
29 | and learning as a condition of probation or
30 | community control as s. 948.037, F.S.;
31 | transferring and renumbering provisions

1 relating to the submission of blood or other
2 biological specimens as s. 948.014, F.S.;
3 transferring and renumbering provisions
4 relating to a batterers' intervention program
5 as s. 948.038, F.S.; creating s. 948.039, F.S.;
6 authorizing the court to impose special terms
7 and conditions of probation or community
8 control, including requiring the offender to
9 attend an HIV/AIDS awareness program and pay
10 certain costs; amending s. 948.06, F.S.,
11 relating to procedures following an arrest of
12 an offender for a violation of probation or
13 community control; transferring and renumbering
14 provisions relating to the arrest of a person
15 for certain sex offenses as s. 948.32, F.S.;
16 amending s. 948.09, F.S.; requiring an offender
17 under addiction-recovery supervision to pay the
18 cost of supervision; amending s. 948.10, F.S.;
19 correcting a cross-reference; amending ss.
20 948.04, 440.02, 775.21, 812.0155, 921.0017,
21 921.187, 947.23, and 958.14, F.S.; revising
22 cross-references, to conform; reenacting ss.
23 944.4731(2)(b) and (7)(b), 948.01(8), and
24 948.06(5), F.S., relating to the
25 Addiction-Recovery Supervision Program, when
26 the court may place a defendant on probation or
27 into community control, and violations of
28 probation or community control, respectively,
29 for the purpose of incorporating the amendment
30 to s. 948.09, F.S., in references thereto;
31 reenacting s. 947.1747, F.S., relating to

1 community control as a special condition of
2 parole, for the purpose of incorporating the
3 amendment to s. 948.10, F.S., in a reference
4 thereto; providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

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

10 948.001 Definitions.--As used in this chapter, the
11 term:

12 (1) "Administrative probation" means a form of
13 noncontact supervision in which an offender who presents a low
14 risk of harm to the community may, upon satisfactory
15 completion of half the term of probation, be transferred
16 ~~placed~~ by the Department of Corrections to ~~on~~ nonreporting
17 status until expiration of the term of supervision. ~~The~~
18 ~~department is authorized to collect an initial processing fee~~
19 ~~of up to \$50 for each probationer reduced to administrative~~
20 ~~probation. Such offender is exempt from further payment for~~
21 ~~cost of supervision as required in s. 948.09.~~

22 Section 2. Paragraph (c) of subsection (3) of section
23 948.01, Florida Statutes, is amended to read:

24 948.01 When court may place defendant on probation or
25 into community control.--

26 (3) If, after considering the provisions of subsection
27 (2) and the offender's prior record or the seriousness of the
28 offense, it appears to the court in the case of a felony
29 disposition that probation is an unsuitable dispositional
30 alternative to imprisonment, the court may place the offender
31 in a community control program as provided in s. 948.10. Or,

1 | in a case of prior disposition of a felony commitment, upon
2 | motion of the offender or the department or upon its own
3 | motion, the court may, within the period of its retained
4 | jurisdiction following commitment, suspend the further
5 | execution of the disposition and place the offender in a
6 | community control program upon such terms as the court may
7 | require. The court may consult with a local offender advisory
8 | council pursuant to s. 948.90 with respect to the placement of
9 | an offender into community control. Not later than 3 working
10 | days before the hearing on the motion, the department shall
11 | forward to the court all relevant material on the offender's
12 | progress while in custody. If this sentencing alternative to
13 | incarceration is utilized, the court shall:

14 | (c) Require the department to provide notifications
15 | pursuant to s. 948.10(7) ~~s. 948.10(6)~~.

16 | Section 3. Present subsection (8) of section 948.10,
17 | Florida Statutes, is redesignated as subsection (11) of
18 | section 948.10, Florida Statutes, and present subsection (5)
19 | of section 948.01, Florida Statutes, is transferred and
20 | renumbered as subsection (10) of section 948.10, Florida
21 | Statutes, to read:

22 | 948.10 Community control programs.--

23 | ~~(10)(5)~~ Upon completion of the sanctions imposed in
24 | the community control plan before the expiration of the term
25 | ordered by the court, the department may petition the court to
26 | discharge the offender from community control supervision or
27 | to return the offender to a program of regular probation
28 | supervision. In considering the petition, the court should
29 | recognize the limited staff resources committed to the
30 | community control program, the purpose of the program, and the
31 |

1 offender's successful compliance with the conditions set forth
2 in the order of the court.

3 Section 4. Present subsection (6) of section 948.01,
4 Florida Statutes, is transferred and renumbered as subsection
5 (1) of section 948.012, Florida Statutes, to read:

6 948.012 Split sentence of probation or community
7 control and imprisonment.--

8 ~~(1)(6)~~ Whenever punishment by imprisonment for a
9 misdemeanor or a felony, except for a capital felony, is
10 prescribed, the court, in its discretion, may, at the time of
11 sentencing, impose a split sentence whereby the defendant is
12 to be placed on probation or, with respect to any such felony,
13 into community control upon completion of any specified period
14 of such sentence which may include a term of years or less.
15 In such case, the court shall stay and withhold the imposition
16 of the remainder of sentence imposed upon the defendant and
17 direct that the defendant be placed upon probation or into
18 community control after serving such period as may be imposed
19 by the court. The period of probation or community control
20 shall commence immediately upon the release of the defendant
21 from incarceration, whether by parole or gain-time allowances.

22 Section 5. Subsection (7) of section 948.01, Florida
23 Statutes, is amended to read:

24 948.01 When court may place defendant on probation or
25 into community control.--

26 (7) ~~In no case shall~~ The imposition of sentence may
27 not be suspended and the defendant thereupon placed on
28 probation or into community control unless the ~~such~~ defendant
29 is placed under the custody of the department or another
30 public or private entity. A private entity may not provide
31 probationary or supervision services to felony or misdemeanor

1 offenders sentenced or placed on probation or other
2 supervision by the circuit court.

3 Section 6. Present subsection (9) of section 948.10,
4 Florida Statutes, is redesignated as subsection (12) of
5 section 948.10, Florida Statutes, and present subsection (9)
6 of section 948.01, Florida Statutes, is transferred and
7 renumbered as subsection (9) of section 948.10, Florida
8 Statutes, to read:

9 948.10 Community control programs.--

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

13 Section 7. Present subsections (2) through (7) of
14 section 948.10, Florida Statutes, are redesignated as
15 subsections (3) through (8), respectively, and present
16 subsection (10) of section 948.01, Florida Statutes, is
17 transferred and renumbered as subsection (2) of section
18 948.10, Florida Statutes, to read:

19 948.10 Community control programs.--

20 ~~(2)(10)~~ An offender may not be placed in community
21 control if:

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

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

26
27 Nothing in this subsection prohibits placement of certain
28 inmates on community control pursuant to s. 947.1747. For the
29 purposes of this subsection, a forcible felony does not
30 include manslaughter or burglary.

31

1 Section 8. Present subsection (11) of section 948.01,
2 Florida Statutes, is transferred and renumbered as subsection
3 (2) of section 948.012, Florida Statutes, to read:

4 948.012 Split sentence of probation or community
5 control and imprisonment.--

6 ~~(2)(11)~~ The court may also impose a split sentence
7 whereby the defendant is sentenced to a term of probation
8 which may be followed by a period of incarceration or, with
9 respect to a felony, into community control, as follows:

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

14 (b) If the offender does not meet the terms and
15 conditions of probation or community control, the court may
16 revoke, modify, or continue the probation or community control
17 as provided in s. 948.06. If the probation or community
18 control is revoked, the court may impose any sentence that it
19 could have imposed at the time the offender was placed on
20 probation or community control. The court may not provide
21 credit for time served for any portion of a probation or
22 community control term toward a subsequent term of probation
23 or community control. However, the court may not impose a
24 subsequent term of probation or community control which, when
25 combined with any amount of time served on preceding terms of
26 probation or community control for offenses pending before the
27 court for sentencing, would exceed the maximum penalty
28 allowable as provided in s. 775.082. Such term of
29 incarceration shall be served under applicable law or county
30 ordinance governing service of sentences in state or county
31

1 jurisdiction. This paragraph does not prohibit any other
2 sanction provided by law.

3 Section 9. Present subsection (12) of section 948.01,
4 Florida Statutes, is transferred and renumbered as subsection
5 (3) of section 948.012, Florida Statutes, and amended to read:

6 948.012 Split sentence of probation or community
7 control and imprisonment.--

8 ~~(3)(12)~~ The court may also impose split probation
9 whereby, upon satisfactory completion of half the term of
10 probation, the Department of Corrections may place the
11 offender on administrative probation ~~as defined in s. 948.001~~
12 for the remainder of the term of supervision.

13 Section 10. Present subsection (13) of section 948.01,
14 Florida Statutes, is transferred and renumbered as section
15 948.20, Florida Statutes, and amended to read:

16 ~~948.20(13)~~ Drug offender probation.--If it appears to
17 the court upon a hearing that the defendant is a chronic
18 substance abuser whose criminal conduct is a violation of s.
19 893.13(2)(a) or (6)(a), the court may either adjudge the
20 defendant guilty or stay and withhold the adjudication of
21 guilt; and, in either case, it may stay and withhold the
22 imposition of sentence and place the defendant on drug
23 offender probation.

24 ~~(1)(a)~~ The Department of Corrections shall develop and
25 administer a drug offender probation program which emphasizes
26 a combination of treatment and intensive community supervision
27 approaches and which includes provision for supervision of
28 offenders in accordance with a specific treatment plan. The
29 program may include the use of graduated sanctions consistent
30 with the conditions imposed by the court. Drug offender
31 probation status shall include surveillance and random drug

1 testing, and may include those measures normally associated
2 with community control, except that specific treatment
3 conditions and other treatment approaches necessary to monitor
4 this population may be ordered.

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

7 Section 11. Present subsection (14) of section 948.01,
8 Florida Statutes, is transferred and renumbered as subsection
9 (3) of section 948.101, Florida Statutes, to read:

10 948.101 Terms and conditions of community control and
11 criminal quarantine community control.--

12 ~~(3)(14)~~ The court may place a defendant who is being
13 sentenced for criminal transmission of HIV in violation of s.
14 775.0877 on criminal quarantine community control. The
15 Department of Corrections shall develop and administer a
16 criminal quarantine community control program emphasizing
17 intensive supervision with 24-hour-per-day electronic
18 monitoring. Criminal quarantine community control status must
19 include surveillance and may include other measures normally
20 associated with community control, except that specific
21 conditions necessary to monitor this population may be
22 ordered.

23 Section 12. Present subsection (15) of section 948.01,
24 Florida Statutes, is transferred and renumbered as subsection
25 (2) of 948.013, Florida Statutes, and amended to read:

26 948.013 Administrative probation.--

27 (1) The Department of Corrections may establish
28 procedures for transferring an offender to administrative
29 probation. The department may collect an initial processing
30 fee of up to \$50 for each probationer transferred to
31

1 administrative probation. The offender is exempt from further
2 payment for the cost of supervision as required in s. 948.09.

3 ~~(2)(15)~~ Effective for an offense committed on or after
4 July 1, 1998, a person is ineligible for placement on
5 administrative probation if the person is sentenced to or is
6 serving a term of probation or community control, regardless
7 of the conviction or adjudication, for committing, or
8 attempting, conspiring, or soliciting to commit, any of the
9 felony offenses described in s. 787.01 or s. 787.02, where the
10 victim is a minor and the defendant is not the victim's
11 parent; s. 787.025; chapter 794; s. 796.03; s. 800.04; s.
12 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.
13 847.0145.

14 Section 13. Section 948.011, Florida Statutes, is
15 amended to read:

16 948.011 When court may impose fine and place on
17 probation or into community control as an alternative to
18 imprisonment.--When the law authorizes the placing of a
19 defendant on probation, and when the defendant's offense is
20 punishable by both fine and imprisonment, the trial court may,
21 in its discretion, impose a fine upon him or her and place him
22 or her on probation or into community control as an
23 alternative to imprisonment.

24 Section 14. Subsection (1) of section 948.03, Florida
25 Statutes, as amended by section 136 of chapter 2003-402, Laws
26 of Florida, is amended to read:

27 948.03 Terms and conditions of probation ~~or community~~
28 ~~control~~.--

29 (1) The court shall determine the terms and conditions
30 of probation ~~or community control~~. Conditions specified in
31 this section ~~paragraphs (a) (m)~~ do not require oral

1 pronouncement at the time of sentencing and may be considered
2 standard conditions of probation. ~~Conditions specified in~~
3 ~~paragraphs (a) (m) and (2)(a) do not require oral~~
4 ~~pronouncement at sentencing and may be considered standard~~
5 ~~conditions of community control.~~ These conditions may include
6 among them the following, that the probationer or offender in
7 community control shall:

8 (a) Report to the probation and parole supervisors as
9 directed.

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

12 (c) Work faithfully at suitable employment insofar as
13 may be possible.

14 (d) Remain within a specified place.

15 (e) Make reparation or restitution to the aggrieved
16 party for the damage or loss caused by his or her offense in
17 an amount to be determined by the court. The court shall make
18 such reparation or restitution a condition of probation,
19 unless it determines that clear and compelling reasons exist
20 to the contrary. If the court does not order restitution, or
21 orders restitution of only a portion of the damages, as
22 provided in s. 775.089, it shall state on the record in detail
23 the reasons therefor.

24 (f) Effective July 1, 1994, and applicable for
25 offenses committed on or after that date, make payment of the
26 debt due and owing to a county or municipal detention facility
27 under s. 951.032 for medical care, treatment, hospitalization,
28 or transportation received by the felony probationer while in
29 that detention facility. The court, in determining whether to
30 order such repayment and the amount of such repayment, shall
31 consider the amount of the debt, whether there was any fault

1 of the institution for the medical expenses incurred, the
2 financial resources of the felony probationer, the present and
3 potential future financial needs and earning ability of the
4 probationer, and dependents, and other appropriate factors.

5 (g) Support his or her legal dependents to the best of
6 his or her ability.

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

10 (i) Pay any application fee assessed under s.
11 27.52(2)(a) and attorney's fees and costs assessed under s.
12 938.29, subject to modification based on change of
13 circumstances.

14 (j) Not associate with persons engaged in criminal
15 activities.

16 (k)1. Submit to random testing as directed by the
17 correctional probation officer or the professional staff of
18 the treatment center where he or she is receiving treatment to
19 determine the presence or use of alcohol or controlled
20 substances.

21 2. If the offense was a controlled substance violation
22 and the period of probation immediately follows a period of
23 incarceration in the state correction system, the conditions
24 shall include a requirement that the offender submit to random
25 substance abuse testing intermittently throughout the term of
26 supervision, upon the direction of the correctional probation
27 officer as defined in s. 943.10(3).

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

31

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

6 (n) Submit to the drawing of blood or other biological
7 specimens as prescribed in ss. 948.014 and 943.325, and
8 reimburse the appropriate agency for the costs of drawing and
9 transmitting the blood or other biological specimens to the
10 Department of Law Enforcement.

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

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

20 Section 15. Present subsection (2) of section 948.03,
21 Florida Statutes, is transferred and renumbered as subsection
22 (1) of section 948.101, Florida Statutes, and amended to read:

23 948.101 Terms and conditions of community control and
24 criminal quarantine community control.--

25 (1) The court shall determine the terms and conditions
26 of community control. Conditions specified in this subsection
27 do not require oral pronouncement at the time of sentencing
28 and may be considered standard conditions of community
29 control.

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

4 1. Specified contact with the parole and probation
5 officer.

6 2. Confinement to an agreed-upon residence during
7 hours away from employment and public service activities.

8 3. Mandatory public service.

9 4. Supervision by the Department of Corrections by
10 means of an electronic monitoring device or system.

11 5. The standard conditions of probation set forth in
12 s. 948.03(1) and (2).

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

15 1. Electronic monitoring 24 hours per day.

16 2. Confinement to a designated residence during
17 designated hours.

18 (2) The enumeration of specific kinds of terms and
19 conditions does not prevent the court from adding thereto any
20 other terms or conditions that the court considers proper.

21 However, the sentencing court may only impose a condition of
22 supervision allowing an offender convicted of s. 794.011, s.
23 800.04, s. 827.071, or s. 847.0145 to reside in another state
24 if the order stipulates that it is contingent upon the
25 approval of the receiving state interstate compact authority.

26 The court may rescind or modify at any time the terms and
27 conditions theretofore imposed by it upon the offender in
28 community control. However, if the court withholds
29 adjudication of guilt or imposes a period of incarceration as
30 a condition of community control, the period may not exceed
31 364 days, and incarceration shall be restricted to a county

1 facility, a probation and restitution center under the
2 jurisdiction of the Department of Corrections, a probation
3 program drug punishment phase I secure residential treatment
4 institution, or a community residential facility owned or
5 operated by any entity providing such services.

6 Section 16. Present subsection (3) of section 948.03,
7 Florida Statutes, is transferred and renumbered as section
8 948.11, Florida Statutes, and amended to read:

9 948.11 Electronic monitoring devices.--~~Pursuant to~~
10 ~~chapter 287, the department shall issue a request for proposal~~
11 ~~for electronic monitoring devices to be utilized by the~~
12 ~~department for purposes of electronic monitoring under this~~
13 ~~section or any other section of law which authorizes~~
14 ~~electronic monitoring. Electronic monitoring devices certified~~
15 ~~for use by the department must be licensed by the FCC, must be~~
16 ~~capable of maintaining full operation on a backup power source~~
17 ~~for 8 hours, and must meet such other necessary and vital~~
18 ~~specifications as may be set by the department for~~
19 ~~tamper alert, efficient, and economical usage. The provisions~~
20 ~~of this section do not apply to passive devices.~~

21 (1)(3)(a)1- The Department of Corrections may, at its
22 discretion, electronically monitor an offender sentenced to
23 community control.

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

27 (2)(b) Any offender placed on community control who
28 violates the terms and conditions of community control and is
29 restored to community control may be supervised by means of an
30 electronic monitoring device or system.

31

1 ~~(3)(c)~~ For those offenders being electronically
2 monitored, the Department of Corrections shall develop
3 procedures to determine, investigate, and report the
4 offender's noncompliance with the terms and conditions of
5 sentence 24 hours per day. All reports of noncompliance shall
6 be immediately investigated by a community control officer.

7 ~~(4)(d)~~ The Department of Corrections may contract with
8 local law enforcement agencies to assist in the location and
9 apprehension of offenders who are in noncompliance as reported
10 by the electronic monitoring system. This contract is intended
11 to provide the department a means for providing immediate
12 investigation of noncompliance reports, especially after
13 normal office hours.

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

17 Section 17. Present subsection (4) of section 948.03,
18 Florida Statutes, is transferred and renumbered as section
19 948.31, Florida Statutes, and amended to read:

20 ~~948.31(4)~~ Diagnosis, evaluation, and treatment of
21 offenders placed on probation or community control for certain
22 sex offenses or child exploitation.-- The court shall require
23 a diagnosis and evaluation to determine the need of a
24 probationer or offender in community control for treatment.
25 If the court determines that a need therefor is established by
26 such diagnosis and evaluation process, the court shall require
27 outpatient counseling as a term or condition of probation or
28 community control for any person who was found guilty of any
29 of the following, or whose plea of guilty or nolo contendere
30 to any of the following was accepted by the court:

31

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

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

6 ~~(3)(c)~~ Exploitation of a child as provided in s.
7 450.151, or for prostitution.

8
9 Such counseling shall be required to be obtained from a
10 community mental health center, a recognized social service
11 agency providing mental health services, or a private mental
12 health professional or through other professional counseling.
13 The plan for counseling for the individual shall be provided
14 to the court for review.

15 Section 18. Present subsection (5) of section 948.03,
16 Florida Statutes, is transferred and renumbered as section
17 948.30, Florida Statutes, and amended to read:

18 ~~948.30(5)~~ Additional terms and conditions of
19 probation or community control for certain sex offenses.--
20 Conditions imposed pursuant to this section ~~subsection~~, ~~as~~
21 ~~specified in paragraphs (a) and (b)~~, do not require oral
22 pronouncement at the time of sentencing and shall be
23 considered standard conditions of probation or community
24 control for offenders specified in this section ~~subsection~~.

25 ~~(1)(a)~~ Effective for probationers or community
26 controllees whose crime was committed on or after October 1,
27 1995, and who are placed under supervision for violation of
28 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court
29 must impose the following conditions in addition to all other
30 standard and special conditions imposed:

31

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

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

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

24 ~~(d)4-~~ A prohibition on any contact with the victim,
25 directly or indirectly, including through a third person,
26 unless approved by the victim, the offender's therapist, and
27 the sentencing court.

28 ~~(e)5-~~ If the victim was under the age of 18, a
29 prohibition, until successful completion of a sex offender
30 treatment program, on unsupervised contact with a child under
31 the age of 18, unless authorized by the sentencing court

1 without another adult present who is responsible for the
2 child's welfare, has been advised of the crime, and is
3 approved by the sentencing court.

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

8 ~~(g)7-~~ Unless otherwise indicated in the treatment plan
9 provided by the sexual offender treatment program, a
10 prohibition on viewing, owning, or possessing any obscene,
11 pornographic, or sexually stimulating visual or auditory
12 material, including telephone, electronic media, computer
13 programs, or computer services that are relevant to the
14 offender's deviant behavior pattern.

15 ~~(h)8-~~ A requirement that the probationer or community
16 controllee must submit a specimen ~~two specimens~~ of blood or
17 other approved biological specimen ~~specimens~~ to the Florida
18 Department of Law Enforcement to be registered with the DNA
19 data bank.

20 ~~(i)9-~~ A requirement that the probationer or community
21 controllee make restitution to the victim, as ordered by the
22 court under s. 775.089, for all necessary medical and related
23 professional services relating to physical, psychiatric, and
24 psychological care.

25 ~~(j)10-~~ Submission to a warrantless search by the
26 community control or probation officer of the probationer's or
27 community controllee's person, residence, or vehicle.

28 ~~(2)(b)~~ Effective for a probationer or community
29 controllee whose crime was committed on or after October 1,
30 1997, and who is placed on sex offender probation for a
31 violation of chapter 794, s. 800.04, s. 827.071, or s.

1 847.0145, in addition to any other provision of this
2 subsection, the court must impose the following conditions of
3 probation or community control:

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

14 (b)2- Maintenance of a driving log and a prohibition
15 against driving a motor vehicle alone without the prior
16 approval of the supervising officer.

17 (c)3- A prohibition against obtaining or using a post
18 office box without the prior approval of the supervising
19 officer.

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

24 (e)5- Electronic monitoring when deemed necessary by
25 the community control or probation officer and his or her
26 supervisor, and ordered by the court at the recommendation of
27 the Department of Corrections.

28 Section 19. Subsection (6) of section 948.03, Florida
29 Statutes, is amended to read:

30 948.03 Terms and conditions of probation ~~or community~~
31 ~~control~~.--

1 (6) The enumeration of specific kinds of terms and
2 conditions shall not prevent the court from adding thereto
3 such other or others as it considers proper. However, the
4 sentencing court may only impose a condition of supervision
5 allowing an offender convicted of s. 794.011, s. 800.04, s.
6 827.071, or s. 847.0145, to reside in another state, if the
7 order stipulates that it is contingent upon the approval of
8 the receiving state interstate compact authority. The court
9 may rescind or modify at any time the terms and conditions
10 theretofore imposed by it upon the probationer ~~or offender in~~
11 ~~community control~~. However, if the court withholds
12 adjudication of guilt or imposes a period of incarceration as
13 a condition of probation ~~or community control~~, the period
14 shall not exceed 364 days, and incarceration shall be
15 restricted to either a county facility, a probation and
16 restitution center under the jurisdiction of the Department of
17 Corrections, a probation program drug punishment phase I
18 secure residential treatment institution, or a community
19 residential facility owned or operated by any entity providing
20 such services.

21 Section 20. Present subsection (7) of section 948.03,
22 Florida Statutes, is transferred and renumbered as section
23 948.035, Florida Statutes, and amended to read:

24 948.035(7)(a) Residential treatment as a condition of
25 probation or community control.--

26 (1) If the court imposes a period of residential
27 treatment or incarceration as a condition of probation or
28 community control, the residential treatment or incarceration
29 shall be restricted to the following facilities:

30 (a)~~1-~~ A Department of Corrections probation and
31 restitution center;

1 **(b)2-** A probation program drug punishment treatment
2 community;

3 **(c)3-** A community residential facility which is owned
4 and operated by any public or private entity, excluding a
5 community correctional center as defined in s. 944.026; or

6 **(d)4-** A county-owned facility.

7 **(2)(b)** It is the intent of the Legislature that a
8 county jail be used as the last available alternative for
9 placement of an offender as a condition of probation.

10 However, this shall not create a right of placement for the
11 probationer, nor shall it restrict judicial discretion in
12 ordering such treatment or incarceration.

13 **(3)(e)** Prior to admission to such a facility or
14 treatment community, the court shall obtain an individual
15 assessment and recommendation on the appropriate treatment
16 needs pursuant to ~~chapter 953~~ or the Community Control
17 Implementation Manual which shall be considered by the court
18 in ordering such placements. Placement in such a facility or
19 center, or in the phase I secure residential phase of a
20 probation program drug punishment treatment community, shall
21 not exceed 364 days. Early completion of an offender's
22 placement shall be recommended to the court, when appropriate,
23 by the facility or center supervisor, by the supervising
24 probation officer, or by the program manager. ~~However, with~~
25 ~~respect to the placement of a probationer pursuant to chapter~~
26 ~~953, such placement shall not be completed until satisfactory~~
27 ~~completion of the drug punishment program. Termination for~~
28 ~~cause from such a program shall be pursuant to s. 953.25(4).~~
29 The Department of Corrections is authorized to contract with
30 appropriate agencies for provision of services.

31

1 Section 21. Present subsection (8) of section 948.03,
2 Florida Statutes, is transferred and renumbered as section
3 948.036, Florida Statutes, and amended to read:

4 948.036(8)(a) Work programs as a condition of
5 probation, community control, or other court-ordered community
6 supervision.--

7 (1) Whenever an offender is required by the court to
8 participate in any work program under the provisions of this
9 chapter, enters into the pretrial intervention program
10 pursuant to s. 948.08, or volunteers to work in a supervised
11 work program conducted by a specified state, county,
12 municipal, or community service organization or to work for
13 the victim, either as an alternative to monetary restitution
14 or as a part of the rehabilitative or community control
15 program, the offender shall be considered an employee of the
16 state for the purposes of chapter 440.

17 (2)(b) In determining the average weekly wage, unless
18 otherwise determined by a specific funding program, all
19 remuneration received from the employer shall be considered a
20 gratuity, and the offender shall not be entitled to any
21 benefits otherwise payable under s. 440.15, regardless of
22 whether the offender may be receiving wages and remuneration
23 from other employment with another employer and regardless of
24 his or her future wage-earning capacity. The provisions of
25 this section ~~subsection~~ do not apply to any person performing
26 labor under a sentence of a court to perform community
27 services as provided in s. 316.193.

28 Section 22. Present subsection (9) of section 948.03,
29 Florida Statutes, is transferred and renumbered as section
30 948.037, Florida Statutes, and amended to read:

31

1 948.037(9)(a) Education and learning as a condition
2 of probation or community control.--

3 (1) As a condition of community control, probation, or
4 probation following incarceration, the court shall require an
5 offender who has not obtained a high school diploma or high
6 school equivalency diploma or who lacks basic or functional
7 literacy skills, upon acceptance by an adult education
8 program, to make a good faith effort toward completion of such
9 basic or functional literacy skills or high school equivalency
10 diploma, as defined in s. 1003.435, in accordance with the
11 assessed adult general education needs of the individual
12 offender. The court shall not revoke community control,
13 probation, or probation following incarceration because of the
14 offender's inability to achieve such skills or diploma but may
15 revoke community control, probation, or probation following
16 incarceration if the offender fails to make a good faith
17 effort to achieve such skills or diploma. The court may grant
18 early termination of community control, probation, or
19 probation following incarceration upon the offender's
20 successful completion of the approved program. As used in
21 this subsection, "good faith effort" means the offender is
22 enrolled in a program of instruction and is attending and
23 making satisfactory progress toward completion of the
24 requirements.

25 (2)(b) A juvenile on community control who is a public
26 school student must attend a public adult education program or
27 a dropout prevention program, pursuant to s. 1003.53, which
28 includes a second chance school or an alternative to
29 expulsion, if the school district where the juvenile is
30 enrolled offers such programs, unless the principal of the
31

1 school determines that special circumstances warrant
2 continuation in the regular educational school program.

3 ~~(3)(c)~~ If a juvenile on community control attends a
4 regular educational school program because a public adult
5 education program or dropout prevention program, which
6 includes a second chance school or an alternative to
7 expulsion, is not available in the school district, the
8 identity of the juvenile on community control, the nature of
9 the felony offense committed by the juvenile, and the
10 conditions of community control must be made known to each of
11 the student's teachers.

12 Section 23. Present subsection (10) of section 948.03,
13 Florida Statutes, is transferred and renumbered as subsections
14 (1) and (2) of section 948.014, Florida Statutes, and amended
15 to read:

16 ~~948.014(10)~~ Requirement to submit to drawing of blood
17 or other biological specimens.--

18 (1) As a condition of probation, community control, or
19 any other court-ordered community supervision, the court shall
20 order persons convicted of offenses specified in s. 943.325 to
21 submit to the drawing of the blood or other biological
22 specimens as prescribed in that section as a condition of the
23 probation, community control, or other court-ordered community
24 supervision.

25 (2) For the purposes of this section ~~subsection~~,
26 conviction shall include a finding of guilty, or entry of a
27 plea of nolo contendere or guilty, regardless of adjudication,
28 or, in the case of a juvenile, the finding of delinquency.

29 Section 24. Present subsection (11) of section 948.03,
30 Florida Statutes, is transferred and renumbered as subsection
31 (3) of section 948.014, Florida Statutes, and amended to read:

1 948.014 Requirement to submit to drawing of blood or
2 other biological specimens.--

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

8 Section 25. Present subsection (12) of section 948.03,
9 Florida Statutes, is transferred and renumbered as section
10 948.038, Florida Statutes, and amended to read:

11 ~~948.038(12)~~ Batterers' intervention program as a
12 condition of probation, community control, or other
13 court-ordered community supervision.--As a condition of
14 probation, community control, or any other court-ordered
15 community supervision, the court shall order a person
16 convicted of an offense of domestic violence, as defined in s.
17 741.28, to attend and successfully complete a batterers'
18 intervention program unless the court determines that the
19 person does not qualify for the batterers' intervention
20 program pursuant to s. 741.325. ~~Effective July 1, 2002,~~ The
21 batterers' intervention program must be a program certified
22 under s. 741.32 and the offender must pay the cost of
23 attending the program.

24 Section 26. Section 948.039, Florida Statutes, is
25 created to read:

26 948.039 Special terms and conditions of probation or
27 community control imposed by court order.--The court may
28 determine any special terms and conditions of probation or
29 community control. The terms and conditions should be
30 reasonably related to the circumstances of the offense
31 committed and appropriate for the offender. The court shall

1 impose the special terms and conditions by oral pronouncement
2 at sentencing and include the terms and conditions in the
3 written sentencing order. Special terms and conditions may
4 include, but are not limited to, requirements that the
5 offender:

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

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

15 Section 27. Subsection (1) of section 948.06, Florida
16 Statutes, is amended to read:

17 948.06 Violation of probation or community control;
18 revocation; modification; continuance; failure to pay
19 restitution or cost of supervision.--

20 (1)(a) Whenever within the period of probation or
21 community control there are reasonable grounds to believe that
22 a probationer or offender in community control has violated
23 his or her probation or community control in a material
24 respect, any law enforcement officer who is aware of the
25 probationary or community control status of the probationer or
26 offender in community control or any parole or probation
27 supervisor may arrest or request any county or municipal law
28 enforcement officer to arrest such probationer or offender
29 without warrant wherever found and forthwith return him or her
30 to the court granting such probation or community control.

31

1 **(b)** Any committing magistrate may issue a warrant,
2 upon the facts being made known to him or her by affidavit of
3 one having knowledge of such facts, for the arrest of the
4 probationer or offender, returnable forthwith before the court
5 granting such probation or community control.

6 **(c)** Any parole or probation supervisor, any officer
7 authorized to serve criminal process, or any peace officer of
8 this state is authorized to serve and execute such warrant.

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

23 **(2)(a)** The court, upon the probationer or offender
24 being brought before it, shall advise him or her of such
25 charge of violation and, if such charge is admitted to be
26 true, may forthwith revoke, modify, or continue the probation
27 or community control or place the probationer into a community
28 control program.

29 **(b)** If probation or community control is revoked, the
30 court shall adjudge the probationer or offender guilty of the
31 offense charged and proven or admitted, unless he or she has

1 | previously been adjudged guilty, and impose any sentence which
2 | it might have originally imposed before placing the
3 | probationer on probation or the offender into community
4 | control.

5 | (c) If such violation of probation or community
6 | control is not admitted by the probationer or offender, the
7 | court may commit him or her or release him or her with or
8 | without bail to await further hearing, or it may dismiss the
9 | charge of probation or community control violation.

10 | (d) If such charge is not at that time admitted by the
11 | probationer or offender and if it is not dismissed, the court,
12 | as soon as may be practicable, shall give the probationer or
13 | offender an opportunity to be fully heard on his or her behalf
14 | in person or by counsel.

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

24 | (f) Notwithstanding s. 775.082, when a period of
25 | probation or community control has been tolled, upon
26 | revocation or modification of the probation or community
27 | control, the court may impose a sanction with a term that when
28 | combined with the amount of supervision served and tolled,
29 | exceeds the term permissible pursuant to s. 775.082 for a term
30 | up to the amount of the tolled period of supervision.

31 |

1 (g) If the court dismisses an affidavit alleging a
2 violation of probation or community control, the offender's
3 probation or community control shall continue as previously
4 imposed, and the offender shall receive credit for all tolled
5 time against his or her term of probation or community
6 control.

7 Section 28. Present subsection (2) of section 948.06,
8 Florida Statutes, is transferred and renumbered as section
9 948.32, Florida Statutes, and amended to read:

10 ~~948.32(2)(a)~~ Requirements of law enforcement agency
11 upon arrest of persons for certain sex offenses.--

12 (1) When any state or local law enforcement agency
13 investigates or arrests a person for committing, or
14 attempting, soliciting, or conspiring to commit, a violation
15 of s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 827.071,
16 s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement
17 agency shall contact the Department of Corrections to verify
18 whether the person under investigation or under arrest is on
19 probation, community control, parole, conditional release, or
20 control release.

21 ~~(2)(b)~~ If the law enforcement agency finds that the
22 person under investigation or under arrest is on probation,
23 community control, parole, conditional release, or control
24 release, the law enforcement agency shall immediately notify
25 the person's probation officer or release supervisor of the
26 investigation or the arrest.

27 Section 29. Subsections (1) and (7) of section 948.09,
28 Florida Statutes, are amended to read:

29 948.09 Payment for cost of supervision and
30 rehabilitation.--
31

1 (1)(a)1. Any person ordered by the court, the
2 Department of Corrections, or the parole commission to be
3 placed on probation, drug offender probation, community
4 control, parole, control release, provisional release
5 supervision, addiction-recovery supervision, or conditional
6 release supervision under chapter 944, chapter 945, chapter
7 947, chapter 948, or chapter 958, or in a pretrial
8 intervention program, must, as a condition of any placement,
9 pay the department a total sum of money equal to the total
10 month or portion of a month of supervision times the
11 court-ordered amount, but not to exceed the actual per diem
12 cost of the supervision. The department shall adopt rules by
13 which an offender who pays in full and in advance of regular
14 termination of supervision may receive a reduction in the
15 amount due. The rules shall incorporate provisions by which
16 the offender's ability to pay is linked to an established
17 written payment plan. Funds collected from felony offenders
18 may be used to offset costs of the Department of Corrections
19 associated with community supervision programs, subject to
20 appropriation by the Legislature.

21 2. In addition to any other contribution or surcharge
22 imposed by this section, each felony offender assessed under
23 this paragraph shall pay a \$2-per-month surcharge to the
24 department. The surcharge shall be deemed to be paid only
25 after the full amount of any monthly payment required by the
26 established written payment plan has been collected by the
27 department. These funds shall be used by the department to pay
28 for correctional probation officers' training and equipment,
29 including radios, and firearms training, firearms, and
30 attendant equipment necessary to train and equip officers who
31 choose to carry a concealed firearm while on duty. Nothing in

1 | this subparagraph shall be construed to limit the department's
2 | authority to determine who shall be authorized to carry a
3 | concealed firearm while on duty, or to limit the right of a
4 | correctional probation officer to carry a personal firearm
5 | approved by the department.

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

10 | (7) The department shall establish a payment plan for
11 | all costs ordered by the courts for collection by the
12 | department and a priority order for payments, except that
13 | victim restitution payments authorized under s. 948.03(5) ~~s.~~
14 | ~~948.03(1)(c)~~ take precedence over all other court-ordered
15 | payments. The department is not required to disburse
16 | cumulative amounts of less than \$10 to individual payees
17 | established on this payment plan.

18 | Section 30. Subsection (7) of section 948.10, Florida
19 | Statutes, is amended to read:

20 | 948.10 Community control programs.--

21 | (7) If an offender is sentenced to community control
22 | by the court and the offender is ineligible to be placed on
23 | community control as provided in s. 948.10(2) ~~s. 948.01(10)~~,
24 | the department shall:

25 | (a) Review and verify whether an ineligible offender
26 | was placed on community control.

27 | (b) Within 30 days after receipt of the order, notify
28 | the sentencing judge, the state attorney, and the Attorney
29 | General that the offender was ineligible for placement on
30 | community control.

31 |

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

5 (d) Provide an annual report to the Governor, the
6 President of the Senate, the Speaker of the House of
7 Representatives, and the Chief Justice of the Supreme Court on
8 the placement of ineligible offenders on community control in
9 order to assist in preparing judicial education programs or
10 for any other purpose.

11 Section 31. Subsection (1) of section 948.04, Florida
12 Statutes, is amended to read:

13 948.04 Period of probation; duty of probationer; early
14 termination.--

15 (1) Defendants found guilty of felonies who are placed
16 on probation shall be under supervision not to exceed 2 years
17 unless otherwise specified by the court. No defendant placed
18 on probation pursuant to s. 948.012(1) ~~s. 948.01(6)~~ or s.
19 948.034 is subject to the probation limitations of this
20 subsection. A defendant who is placed on probation or
21 community control for a violation of chapter 794 or chapter
22 827 is subject to the maximum level of supervision provided by
23 the supervising agency, and that supervision shall continue
24 through the full term of the court-imposed probation or
25 community control.

26 Section 32. Paragraph (c) of subsection (17) of
27 section 440.02, Florida Statutes, is amended to read:

28 440.02 Definitions.--When used in this chapter, unless
29 the context clearly requires otherwise, the following terms
30 shall have the following meanings:

31 (17)

1 (c) "Employment" does not include service performed by
2 or as:

3 1. Domestic servants in private homes.

4 2. Agricultural labor performed on a farm in the
5 employ of a bona fide farmer, or association of farmers, that
6 employs 5 or fewer regular employees and that employs fewer
7 than 12 other employees at one time for seasonal agricultural
8 labor that is completed in less than 30 days, provided such
9 seasonal employment does not exceed 45 days in the same
10 calendar year. The term "farm" includes stock, dairy, poultry,
11 fruit, fur-bearing animals, fish, and truck farms, ranches,
12 nurseries, and orchards. The term "agricultural labor"
13 includes field foremen, timekeepers, checkers, and other farm
14 labor supervisory personnel.

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

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

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

24 Section 33. Paragraph (b) of subsection (3) of section
25 775.21, Florida Statutes, is amended to read:

26 775.21 The Florida Sexual Predators Act; definitions;
27 legislative findings, purpose, and intent; criteria;
28 designation; registration; community and public notification;
29 immunity; penalties.--

30 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE
31 INTENT.--

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

6 1. Incarcerating sexual predators and maintaining
7 adequate facilities to ensure that decisions to release sexual
8 predators into the community are not made on the basis of
9 inadequate space.

10 2. Providing for specialized supervision of sexual
11 predators who are in the community by specially trained
12 probation officers with low caseloads, as described in ss.
13 947.1405(7) and 948.30 ~~948.03(5)~~. The sexual predator is
14 subject to specified terms and conditions implemented at
15 sentencing or at the time of release from incarceration, with
16 a requirement that those who are financially able must pay all
17 or part of the costs of supervision.

18 3. Requiring the registration of sexual predators,
19 with a requirement that complete and accurate information be
20 maintained and accessible for use by law enforcement
21 authorities, communities, and the public.

22 4. Providing for community and public notification
23 concerning the presence of sexual predators.

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

26 Section 34. Paragraph (b) of subsection (2) of section
27 812.0155, Florida Statutes, is amended to read:

28 812.0155 Suspension of driver's license following an
29 adjudication of guilt for theft.--

30 (2) The court may revoke, suspend, or withhold
31 issuance of a driver's license of a person less than 18 years

1 of age who violates s. 812.014 or s. 812.015 as an alternative
2 to sentencing the person to:

3 (b) Probation as defined in s. 985.03, commitment to
4 the Department of Juvenile Justice, probation as defined in
5 chapter 948 ~~s. 948.01~~, community control, or incarceration, if
6 the person is convicted as an adult of such violation and has
7 not previously been convicted of or adjudicated delinquent for
8 any criminal offense, regardless of whether adjudication was
9 withheld.

10 Section 35. Section 921.0017, Florida Statutes, is
11 amended to read:

12 921.0017 Credit upon recommitment of offender serving
13 split sentence.--Effective for offenses committed on or after
14 January 1, 1994, if an offender's probation or community
15 control is revoked and the offender is serving a split
16 sentence pursuant to s. 948.012 ~~s. 948.01~~, upon recommitment
17 to the Department of Corrections, the court shall order credit
18 for time served in state prison or county jail only, without
19 considering any type of gain-time earned before release to
20 supervision, or any type of sentence reduction granted to
21 avoid prison overcrowding, including, but not limited to, any
22 sentence reduction resulting from administrative gain-time,
23 provisional credits, or control release. The court shall
24 determine the amount of jail-time credit to be awarded for
25 time served between the date of arrest as a violator and the
26 date of recommitment, and shall direct the Department of
27 Corrections to compute and apply credit for all other time
28 served previously on the prior sentence for the offense for
29 which the offender is being recommitted. This section does not
30 affect or limit the department's authority to forfeit
31 gain-time under ss. 944.28(1) and 948.06(7).

1 Section 36. Paragraph (a) of subsection (1) of section
2 921.187, Florida Statutes, is amended to read:

3 921.187 Disposition and sentencing; alternatives;
4 restitution.--

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

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

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

15 2. Make any other disposition that is authorized by
16 law.

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

19 4. Impose a fine and probation pursuant to s. 948.011
20 when the offense is punishable by both a fine and imprisonment
21 and probation is authorized.

22 5. Place the offender into community control requiring
23 intensive supervision and surveillance pursuant to chapter
24 948.

25 6. Impose, as a condition of probation or community
26 control, a period of treatment which shall be restricted to a
27 county facility, a Department of Corrections probation and
28 restitution center, a probation program drug punishment
29 treatment community, or a community residential or
30 nonresidential facility, excluding a community correctional
31 center as defined in s. 944.026, which is owned and operated

1 | by any qualified public or private entity providing such
2 | services. Before admission to such a facility, the court shall
3 | obtain an individual assessment and recommendations on the
4 | appropriate treatment needs, which shall be considered by the
5 | court in ordering such placements. Placement in such a
6 | facility, except for a county residential probation facility,
7 | may not exceed 364 days. Placement in a county residential
8 | probation facility may not exceed 3 years. Early termination
9 | of placement may be recommended to the court, when
10 | appropriate, by the center supervisor, the supervising
11 | probation officer, or the probation program manager.

12 | 7. Sentence the offender pursuant to s. 922.051 to
13 | imprisonment in a county jail when a statute directs
14 | imprisonment in a state prison, if the offender's cumulative
15 | sentence, whether from the same circuit or from separate
16 | circuits, is not more than 364 days.

17 | 8. Sentence the offender who is to be punished by
18 | imprisonment in a county jail to a jail in another county if
19 | there is no jail within the county suitable for such prisoner
20 | pursuant to s. 950.01.

21 | 9. Require the offender to participate in a
22 | work-release or educational or technical training program
23 | pursuant to s. 951.24 while serving a sentence in a county
24 | jail, if such a program is available.

25 | 10. Require the offender to perform a specified public
26 | service pursuant to s. 775.091.

27 | 11. Require the offender who violates chapter 893 or
28 | violates any law while under the influence of a controlled
29 | substance or alcohol to participate in a substance abuse
30 | program.

31 |

1 12.a. Require the offender who violates any criminal
2 provision of chapter 893 to pay an additional assessment in an
3 amount up to the amount of any fine imposed, pursuant to ss.
4 938.21 and 938.23.

5 b. Require the offender who violates any provision of
6 s. 893.13 to pay an additional assessment in an amount of
7 \$100, pursuant to ss. 938.25 and 943.361.

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

11 14. Impose split probation whereby upon satisfactory
12 completion of half the term of probation, the Department of
13 Corrections may place the offender on administrative probation
14 pursuant to s. 948.013 ~~s. 948.01~~ for the remainder of the term
15 of supervision.

16 15. Require residence in a state probation and
17 restitution center or private drug treatment program for
18 offenders on community control or offenders who have violated
19 conditions of probation.

20 16. Impose any other sanction which is provided within
21 the community and approved as an intermediate sanction by the
22 county public safety coordinating council as described in s.
23 951.26.

24 17. Impose, as a condition of community control,
25 probation, or probation following incarceration, a requirement
26 that an offender who has not obtained a high school diploma or
27 high school equivalency diploma or who lacks basic or
28 functional literacy skills, upon acceptance by an adult
29 education program, make a good faith effort toward completion
30 of such basic or functional literacy skills or high school
31 equivalency diploma, as defined in s. 1003.435, in accordance

1 with the assessed adult general education needs of the
2 individual offender.

3 Section 37. Subsection (6) of section 947.23, Florida
4 Statutes, is amended to read:

5 947.23 Action of commission upon arrest of parolee.--

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

10 (a) If the hearing was conducted by three or more
11 commissioners, a majority of them shall enter an order
12 determining whether the charges of parole violation have been
13 sustained, based on the findings of fact made by them. By such
14 order they shall revoke the parole and return the parolee to
15 prison to serve the sentence theretofore imposed upon her or
16 him, reinstate the original order of parole, order the
17 placement of the parolee into a community control program as
18 set forth in s. 948.101 ~~s. 948.03~~, or enter such other order
19 as is proper.

20 (b) If the hearing was conducted by one or two
21 commissioners or a duly authorized representative of the
22 commission, at least two commissioners shall enter an order
23 determining whether or not the charges of parole violation
24 have been sustained, based on the findings of fact made by the
25 commissioner, commissioners, or duly authorized representative
26 of the commission. The commissioners, by such order, shall
27 revoke the parole and return the parolee to prison to serve
28 the sentence theretofore imposed upon her or him, reinstate
29 the original order of parole, order the placement of the
30 parolee into a community control program as set forth in s.
31 948.101 ~~s. 948.03~~, or enter such other order as is proper.

1 (c) If the disposition after the revocation hearing is
2 to place the parolee into a community control program, the
3 commission shall be guided by the procedures and requirements
4 provided in chapter 948 which apply to the courts regarding
5 the development and implementation of community control.

6
7 However, any decision to revoke parole shall be based on a
8 violation of a term or condition specifically enumerated in
9 the parole release order. In a case in which parole is
10 revoked, the majority of the commission or the two
11 commissioners shall make a written statement of the evidence
12 relied on and the reasons for revoking parole.

13 Section 38. Section 958.14, Florida Statutes, is
14 amended to read:

15 958.14 Violation of probation or community control
16 program.--A violation or alleged violation of probation or the
17 terms of a community control program shall subject the
18 youthful offender to the provisions of s. 948.06 ~~s. 948.06(1)~~.
19 However, no youthful offender shall be committed to the
20 custody of the department for a substantive violation for a
21 period longer than the maximum sentence for the offense for
22 which he or she was found guilty, with credit for time served
23 while incarcerated, or for a technical or nonsubstantive
24 violation for a period longer than 6 years or for a period
25 longer than the maximum sentence for the offense for which he
26 or she was found guilty, whichever is less, with credit for
27 time served while incarcerated.

28 Section 39. For the purpose of incorporating the
29 amendment to section 948.09, Florida Statutes, in references
30 thereto, paragraph (b) of subsection (2) and paragraph (b) of
31

1 subsection (7) of section 944.4731, Florida Statutes, are
2 reenacted to read:
3 944.4731 Addiction-Recovery Supervision Program.--
4 (2)
5 (b) An offender released under addiction-recovery
6 supervision shall be subject to specified terms and
7 conditions, including payment of the costs of supervision
8 under s. 948.09 and any other court-ordered payments, such as
9 child support and restitution. If an offender has received a
10 term of probation or community control to be served after
11 release from incarceration, the period of probation or
12 community control may not be substituted for
13 addiction-recovery supervision and shall follow the term of
14 addiction-recovery supervision. A panel of not fewer than two
15 parole commissioners shall establish the terms and conditions
16 of supervision, and the terms and conditions must be included
17 in the supervision order. In setting the terms and conditions
18 of supervision, the parole commission shall weigh heavily the
19 program requirements, including, but not limited to, work at
20 paid employment while participating in treatment and traveling
21 restrictions. The commission shall also determine whether an
22 offender violates the terms and conditions of supervision and
23 whether a violation warrants revocation of addiction-recovery
24 supervision pursuant to s. 947.141. The parole commission
25 shall review the offender's record for the purpose of
26 establishing the terms and conditions of supervision. The
27 parole commission may impose any special conditions it
28 considers warranted from its review of the record. The length
29 of supervision may not exceed the maximum penalty imposed by
30 the court.
31

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

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

6 Section 40. For the purpose of incorporating the
7 amendment to section 948.09, Florida Statutes, in a reference
8 thereto, subsection (8) of section 948.01, Florida Statutes,
9 is reenacted to read:

10 948.01 When court may place defendant on probation or
11 into community control.--

12 (8) When the court, under any of the foregoing
13 subsections, places a defendant on probation or into community
14 control, it may specify that the defendant serve all or part
15 of the probationary or community control period in a community
16 residential or nonresidential facility under the jurisdiction
17 of the Department of Corrections or the Department of Children
18 and Family Services or any public or private entity providing
19 such services, and it shall require the payment prescribed in
20 s. 948.09.

21 Section 41. For the purpose of incorporating the
22 amendment to section 948.09, Florida Statutes, in a reference
23 thereto, subsection (5) of section 948.06, Florida Statutes,
24 is reenacted to read:

25 948.06 Violation of probation or community control;
26 revocation; modification; continuance; failure to pay
27 restitution or cost of supervision.--

28 (5) In any hearing in which the failure of a
29 probationer or offender in community control to pay
30 restitution or the cost of supervision as provided in s.
31 948.09, as directed, is established by the state, if the

1 | probationer or offender asserts his or her inability to pay
2 | restitution or the cost of supervision, it is incumbent upon
3 | the probationer or offender to prove by clear and convincing
4 | evidence that he or she does not have the present resources
5 | available to pay restitution or the cost of supervision
6 | despite sufficient bona fide efforts legally to acquire the
7 | resources to do so. If the probationer or offender cannot pay
8 | restitution or the cost of supervision despite sufficient bona
9 | fide efforts, the court shall consider alternate measures of
10 | punishment other than imprisonment. Only if alternate measures
11 | are not adequate to meet the state's interests in punishment
12 | and deterrence may the court imprison a probationer or
13 | offender in community control who has demonstrated sufficient
14 | bona fide efforts to pay restitution or the cost of
15 | supervision.

16 | Section 42. For the purpose of incorporating the
17 | amendment to section 948.10, Florida Statutes, in a reference
18 | thereto, section 947.1747, Florida Statutes, is reenacted to
19 | read:

20 | 947.1747 Community control as a special condition of
21 | parole.--Upon the establishment of an effective parole release
22 | date as provided for in ss. 947.1745 and 947.1746, the
23 | commission may, as a special condition of parole, require an
24 | inmate to be placed in the community control program of the
25 | Department of Corrections as described in s. 948.10 for a
26 | period not exceeding 6 months. In every case in which the
27 | commission decides to place an inmate on community control as
28 | a special condition of parole, the commission shall provide a
29 | written explanation of the reasons for its decision.

30 | Section 43. This act shall take effect July 1, 2004.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS Senate Bill 2336

This CS makes the following changes:

- Adds addiction recovery supervision to other types of supervision for which a person ordered by the court must pay a certain amount as a condition of placement.
- Corrects cross-references.
- Provides for reenactments to incorporate changes to cross-references amended in the CS.