

1 A bill to be entitled

2 An act relating to probation and community control;
3 amending s. 947.22, F.S.; requiring law enforcement
4 officers to assist probation officers in making
5 warrantless arrests; amending s. 948.06, F.S.; requiring
6 law enforcement officers to assist probation officers in
7 making warrantless arrests; requiring law enforcement and
8 probation officers to arrest a probationer or offender if
9 the officer has reasonable grounds to believe that the
10 probationer or offender has violated his or her probation
11 or community control and if the officer is aware that the
12 probationer or offender has a history of convictions for
13 violence; creating s. 948.061, F.S.; requiring the
14 Department of Corrections to develop a risk assessment and
15 alert system to monitor certain offenders placed on
16 probation or community control; requiring increased
17 supervision of such offenders under certain circumstances;
18 requiring that certain information be provided to the
19 court by the correctional probation officer; creating s.
20 948.062, F.S.; requiring the Department of Corrections to
21 review the circumstances of certain arrests of offenders
22 on probation or community control; requiring the Office of
23 Program Policy Analysis and Government Accountability to
24 analyze the reviews and report to the President of the
25 Senate and the Speaker of the House of Representatives;
26 providing legislative findings with respect to the
27 necessity for increased supervision of high-risk offenders
28 who violate community supervision; requesting that the

29 Supreme Court amend a Rule of Criminal Procedure to
 30 require that certain offenders arrested for a violation of
 31 probation or community control be detained while awaiting
 32 a hearing on the violation; providing an effective date.
 33

34 Be It Enacted by the Legislature of the State of Florida:
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36 Section 1. Subsection (2) of section 947.22, Florida
 37 Statutes, is amended to read:

38 947.22 Authority to arrest parole violators with or
 39 without warrant.--

40 (2) Any parole and probation officer, when she or he has
 41 reasonable ground to believe that a parolee, control releasee,
 42 or conditional releasee has violated the terms and conditions of
 43 her or his parole, control release, or conditional release in a
 44 material respect, has the right to arrest, or to request any law
 45 enforcement officer to arrest, the releasee or parolee without
 46 warrant and bring her or him forthwith before one or more
 47 commissioners or a duly authorized representative of the Parole
 48 Commission or Control Release Authority; and proceedings shall
 49 thereupon be had as provided herein when a warrant has been
 50 issued by a member of the commission or authority or a duly
 51 authorized representative of the commission or authority. Local
 52 law enforcement officers shall assist the probation officer,
 53 upon request, in making a warrantless arrest, taking the
 54 releasee or parolee into custody, and transporting the releasee
 55 or parolee to the county jail.

56 Section 2. Paragraph (a) of subsection (1) of section

57 948.06, Florida Statutes, is amended to read:

58 948.06 Violation of probation or community control;
 59 revocation; modification; continuance; failure to pay
 60 restitution or cost of supervision.--

61 (1)(a)1. Whenever within the period of probation or
 62 community control there are reasonable grounds to believe that a
 63 probationer or offender in community control has violated his or
 64 her probation or community control in a material respect, any
 65 law enforcement officer who is aware of the probationary or
 66 community control status of the probationer or offender in
 67 community control or any parole or probation supervisor may
 68 arrest or request any county or municipal law enforcement
 69 officer to arrest the ~~such~~ probationer or offender without
 70 warrant wherever found and forthwith return him or her to the
 71 court granting ~~such~~ probation or community control. Local law
 72 enforcement officers shall assist the probation officer, upon
 73 request, in making a warrantless arrest, taking the probationer
 74 or offender into custody, and transporting the probationer or
 75 offender to the county jail.

76 2. Within the period of probation or community control,
 77 whenever there are reasonable grounds to believe that a
 78 probationer or offender in community control has violated his or
 79 her probation or community control in a material respect, any
 80 law enforcement officer or parole or probation supervisor who is
 81 aware of the probationary or community control status of the
 82 probationer or offender in community control and who is aware
 83 that the probationer or offender has a history of convictions
 84 for violence shall arrest the probationer or offender without

85 warrant wherever found and forthwith return him or her to the
 86 court granting the probation or community control. Local law
 87 enforcement officers shall assist the probation officer, upon
 88 request, in making a warrantless arrest, taking the probationer
 89 or offender into custody, and transporting the probationer or
 90 offender to the county jail.

91 Section 3. Section 948.061, Florida Statutes, is created
 92 to read:

93 948.061 Identifying, assessing, and monitoring certain
 94 high-risk offenders on community supervision; providing
 95 cumulative criminal and supervision histories to the court.--

96 (1) By December 1, 2005, the department shall develop a
 97 graduated risk assessment and alert system that continuously
 98 identifies, assesses, and closely monitors offenders who are
 99 placed on probation or in community control and who:

100 (a) Have previously been placed on probation or in
 101 community control and have a history of committing multiple
 102 violations of community supervision in this state or in any
 103 other jurisdiction or have previously been incarcerated in this
 104 state or in any other jurisdiction; and

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

- 108 1. Attempted suicide or severe depression;
- 109 2. Marital instability or a history of domestic violence;
- 110 3. A history of substance abuse;
- 111 4. Unemployment or substantial financial difficulties;
- 112 5. A history of violence, particularly involving

113 strangers; or
 114 6. Any other risk factor identified by the department.
 115 (2) Recognizing that an offender having an extensive
 116 criminal history and multiple risk factors may pose a serious
 117 threat to the community, the department shall consider the
 118 cumulative impact of these risk factors and, if necessary, place
 119 an offender on an elevated alert status and provide a high level
 120 of supervision for the offender until the situation stabilizes
 121 and the department no longer believes that the offender poses a
 122 threat to others. In providing such supervision and
 123 surveillance, the department shall increase the number of office
 124 and home visits conducted by the correctional probation officer;
 125 expand the number of and type of employment, family, community,
 126 and neighborhood contacts by the correctional probation officer;
 127 increase referrals to available community mental health
 128 facilities and community assistance programs; develop emergency
 129 communication plans and alert systems for law enforcement
 130 agencies and the court in order to quickly detain the offender
 131 in response to a violation; and prioritize departmental
 132 resources in order to more closely monitor the offender's
 133 activities in an effort to prevent escalating criminal behavior.
 134 (3) In providing criminal history and background
 135 information to the court, the correctional probation officer
 136 shall provide in each report submitted to the court and at each
 137 hearing before the court a clear, complete, and concise
 138 cumulative and integrated chronology of the offender's criminal
 139 history and prior terms of probation or community control,
 140 including all substantive or technical violations of probation

141 or community control.

142 Section 4. Section 948.062, Florida Statutes, is created
 143 to read:

144 948.062 Reviewing and reporting serious offenses committed
 145 by offenders placed on probation or community control.--

146 (1) The department shall review the circumstances related
 147 to offenders placed on probation or community control who have
 148 been arrested while on supervision for the following offenses:

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

150 (b) Any sexual battery as provided in s. 794.011 or s.
 151 794.023;

152 (c) Any sexual performance by a child as provided in s.
 153 827.071;

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

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

158 (f) Any aggravated child abuse as provided in s.
 159 827.03(2);

160 (g) Any robbery with a firearm or other deadly weapon,
 161 home invasion robbery, or carjacking as provided in s.
 162 812.13(2)(a), s. 812.135, or s. 812.133;

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

165 (i) Any forcible felony as provided in s. 776.08 committed
 166 by any person on probation or community control who is
 167 designated as a sexual predator; or

168 (j) Any DUI manslaughter as provided in s. 316.193(3)(c),

169 or vehicular or vessel homicide as provided in s. 782.071 or s.
 170 782.072, committed by any person who is on probation or
 171 community control for an offense involving death or injury
 172 resulting from a driving incident.

173
 174 The review shall document whether the supervision of the
 175 offender met enumerated rules, policies, and procedures and
 176 whether supervision practices were followed.

177 (2) The department shall annually provide these reviews to
 178 the Office of Program Policy Analysis and Government
 179 Accountability. The Office of Program Policy Analysis and
 180 Government Accountability shall analyze these reviews and
 181 provide an annual written report to the President of the Senate
 182 and the Speaker of the House of Representatives. The report must
 183 include, at a minimum, any identified systemic deficiencies in
 184 managing high-risk offenders on community supervision and the
 185 judicial disposition of such offenders; any patterns of
 186 noncompliance by correctional probation officers and any
 187 inconsistent or inefficient judicial case processing for
 188 offenders who have violated community supervision; and
 189 recommendations for improving the community supervision program.

190 Section 5. (1) The 2005 Legislature closely examined
 191 chapter 948, Florida Statutes, to address certain critical
 192 public safety concerns and substantive policy issues involving
 193 offenders who violate probation or community control. The
 194 Legislature has carefully scrutinized the effectiveness of the
 195 state's community supervision system and concluded that the
 196 system should increase the level of supervision of high-risk

197 offenders who violate probation or community control. The
 198 Legislature finds that offenders having extensive criminal
 199 histories and multiple risk factors may pose a serious threat to
 200 the community. In addition, the Legislature finds that the
 201 system should consider the cumulative impact of the offenders'
 202 histories and risk factors and quickly detain offenders alleged
 203 to be in violation of probation or community control in order to
 204 protect the public and prevent escalating criminal behavior.

205 (2)(a) Therefore, the Legislature strongly urges the
 206 Florida Supreme Court to amend the concomitant Rule of Criminal
 207 Procedure that sets forth the procedures for the lower courts to
 208 follow when considering bail in cases of violations of probation
 209 or community control.

210 (b) As the Florida Supreme Court opined in Bernhardt v.
 211 State, 288 So.2d 490 (Fla. 1974), release on bail pending a
 212 revocation-of-probation hearing is not a constitutional right.
 213 However, the Legislature recognizes that it is the prerogative
 214 of the Florida Supreme Court to act in the area of practice and
 215 procedure. The Legislature, therefore, recommends that the
 216 Florida Supreme Court consider revising Rule 3.790, Florida
 217 Rules of Criminal Procedure, regarding bail in certain cases
 218 involving a violation of probation or community control.

219 (c) Specifically, the Florida Supreme Court is requested
 220 to amend its rule to require that a probationer or community
 221 controllee who is arrested on an alleged violation, regardless
 222 of adjudication in the underlying offense, be detained while
 223 awaiting a hearing before the court that granted the probation
 224 or community control, if the offense for which the probationer

HB 1385

2005

225 or community controllee is currently on probation or community
226 control is a forcible felony or if the probationer or community
227 controllee has previously been convicted of a forcible felony as
228 provided in s. 776.08, Florida Statutes.

229 Section 6. This act shall take effect upon becoming a law.