

1 Representatives; providing legislative findings
2 with respect to the necessity for increased
3 supervision of high-risk offenders who violate
4 community supervision; requesting that the
5 Supreme Court amend a Rule of Criminal
6 Procedure to require that certain offenders
7 arrested for a violation of probation or
8 community control be detained while awaiting a
9 hearing on the violation; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsection (2) of section 947.22, F.S., is
15 amended to read:

16 947.22 Authority to arrest parole violators with or
17 without warrant.--

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

1 request, in making a warrantless arrest, taking the releasee
2 or parolee into custody, and transporting the releasee or
3 parolee to the county jail.

4 Section 2. Paragraph (a) of subsection (1) of section
5 948.06, Florida Statutes, is amended to read:

6 948.06 Violation of probation or community control;
7 revocation; modification; continuance; failure to pay
8 restitution or cost of supervision.--

9 (1)(a)1. Whenever within the period of probation or
10 community control there are reasonable grounds to believe that
11 a probationer or offender in community control has violated
12 his or her probation or community control in a material
13 respect, any law enforcement officer who is aware of the
14 probationary or community control status of the probationer or
15 offender in community control or any parole or probation
16 supervisor may arrest or request any county or municipal law
17 enforcement officer to arrest ~~the such~~ probationer or offender
18 without warrant wherever found and forthwith return him or her
19 to the court granting ~~such~~ probation or community control.
20 Local law enforcement officers shall assist the probation
21 officer, upon request, in making a warrantless arrest, taking
22 the probationer or offender into custody, and transporting the
23 probation or offender to the county jail.

24 2. Whenever within the period of probation or
25 community control there are reasonable grounds to believe that
26 a probationer or offender in community control has violated
27 his or her probation or community control in a material
28 respect, any law enforcement officer or parole or probation
29 supervisor who is aware of the probationary or community
30 control status of the probationer or offender in community
31 control and who is aware that the probationer or offender has

1 a history of convictions for violence shall arrest the
2 probationer or offender without warrant wherever found and
3 forthwith return him or her to the court granting the
4 probation or community control. Local law enforcement officers
5 shall assist the probation officer, upon request, in making a
6 warrantless arrest, taking the probationer or offender into
7 custody, and transporting the probationer or offender to the
8 county jail.

9 Section 3. Section 948.061, Florida Statutes, is
10 created to read:

11 948.061 Identifying, assessing, and monitoring certain
12 high-risk offenders on community supervision; providing
13 cumulative criminal and supervision histories to the court.--

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

18 (a) Have previously been placed on probation or in
19 community control and have a history of committing multiple
20 violations of community supervision in this state or in any
21 other jurisdiction or have previously been incarcerated in
22 this state or in any other jurisdiction; and

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

26 1. Attempted suicide or severe depression;

27 2. Marital instability or a history of domestic
28 violence;

29 3. A history of substance abuse;

30 4. Unemployment or substantial financial difficulties;
31

1 5. A history of violence, particularly involving
2 strangers; or

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

4 (2) Recognizing that an offender having an extensive
5 criminal history and multiple risk factors may pose a serious
6 threat to the community, the department shall consider the
7 cumulative impact of these risk factors and, if necessary,
8 place an offender on an elevated alert status and provide a
9 high level of supervision for the offender until the situation
10 stabilizes and the department no longer believes that the
11 offender poses a threat to others. In providing such
12 supervision and surveillance, the department shall increase
13 the number of office and home visits conducted by the
14 correctional probation officer; expand the number of and type
15 of employment, family, community, and neighborhood contacts by
16 the correctional probation officer; increase referrals to
17 available community mental health facilities and community
18 assistance programs; develop emergency communication plans and
19 alert systems for law enforcement agencies and the court in
20 order to quickly detain the offender in response to a
21 violation; and prioritize departmental resources in order to
22 more closely monitor the offender's activities in an effort to
23 prevent escalating criminal behavior.

24 (3) In providing criminal history and background
25 information to the court, the correctional probation officer
26 shall provide in each report submitted to the court and at
27 each hearing before the court a clear, complete, and concise
28 cumulative and integrated chronology of the offender's
29 criminal history and prior terms of probation or community
30 control, including all substantive or technical violations of
31 probation or community control.

1 Section 4. Section 948.062, Florida Statutes, is
2 created to read:

3 948.062 Reviewing and reporting serious offenses
4 committed by offenders placed on probation or community
5 control.--

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

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

11 (b) Any sexual battery as provided in s. 794.011 or s.
12 794.023;

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

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

17 (e) Any lewd and lascivious battery or lewd and
18 lascivious molestation as provided in s. 800.04(4) or s.
19 800.04(5);

20 (f) Any aggravated child abuse as provided in s.
21 827.03(2);

22 (g) Any robbery with a firearm or other deadly weapon,
23 home invasion robbery, or carjacking as provided in s.
24 812.13(2)(a), s. 812.135, or s. 812.133;

25 (h) Any aggravated stalking as provided in s.
26 784.048(3), (4), or (5);

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

30 (j) Any DUI manslaughter as provided in s.
31 316.193(3)(c), or vehicular or vessel homicide as provided in

1 s. 782.071 or s. 787.072, committed by any person who is on
2 probation or community control for an offense involving death
3 or injury resulting from a driving incident.

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5 The review shall document whether the supervision of the
6 offender met enumerated rules, policies, and procedures and
7 whether supervision practices were followed.

8 (2) The department shall annually provide these
9 reviews to the Office of Program Policy Analysis and
10 Government Accountability. The Office of Program Policy
11 Analysis and Government Accountability shall analyze these
12 reviews and provide an annual written report to the President
13 of the Senate and the Speaker of the House of Representatives.
14 The report must include, at a minimum, any identified systemic
15 deficiencies in managing high-risk offenders on community
16 supervision and the judicial disposition of such offenders;
17 any patterns of noncompliance by correctional probation
18 officers and any inconsistent or inefficient judicial case
19 processing for offenders who have violated community
20 supervision; and recommendations for improving the community
21 supervision program.

22 Section 5. (1) The 2005 Legislature closely examined
23 chapter 948, Florida Statutes, to address certain critical
24 public safety concerns and substantive policy issues involving
25 offenders who violate probation or community control. The
26 Legislature has carefully scrutinized the effectiveness of the
27 state's community supervision system and concluded that the
28 system should increase the level of supervision of high-risk
29 offenders who violate probation or community control. The
30 Legislature finds that offenders having extensive criminal
31 histories and multiple risk factors may pose a serious threat

1 to the community. In addition, the Legislature finds that the
2 system should consider the cumulative impact of the offenders'
3 histories and risk factors and quickly detain offenders
4 alleged to be in violation of probation or community control
5 in order to protect the public and prevent escalating criminal
6 behavior.

7 (2)(a) Therefore, the Legislature strongly urges the
8 Florida Supreme Court to amend the concomitant Rule of
9 Criminal Procedure that sets forth the procedures for the
10 lower courts to follow when considering bail in cases of
11 violations of probation or community control.

12 (b) As the Florida Supreme Court opined in Bernhardt
13 v. State, 288 So. 490 (Fla. 1974), release on bail pending a
14 revocation-of-probation hearing is not a constitutional right.
15 However, the Legislature recognizes that it is the prerogative
16 of the Florida Supreme Court to act in the area of practice
17 and procedure. The Legislature, therefore, recommends that the
18 Florida Supreme Court consider revising Rule 3.790, Florida
19 Rules of Criminal Procedure, regarding bail in certain cases
20 involving a violation of probation or community control.

21 (c) Specifically, the Florida Supreme Court is
22 requested to amend its rule to require that a probationer or
23 community controllee who is arrested on an alleged violation,
24 regardless of adjudication in the underlying offense, be
25 detained while awaiting a hearing before the court that
26 granted the probation or community control, if the offense for
27 which the probationer or community controllee is currently on
28 probation or community control is a forcible felony or if the
29 probationer or community controllee has previously been
30 convicted of a forcible felony as provided in section 776.08,
31 Florida Statutes.

