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A bill to be entitled  
 An act relating to forcible felony violators; creating s.  
 903.0351, F.S.; denying bail to forcible felony violators  
 in certain circumstances; amending s. 948.06, F.S.;  
 providing definitions; providing that forcible felony  
 violators shall remain in custody pending the resolution  
 of the probation or community control violation hearings;  
 providing for hearings to determine the nature and  
 probability of any danger that forcible felony violators  
 pose to the community; amending s. 921.0024, F.S.;  
 revising Criminal Punishment Code computations to provide  
 additional community sanction violation points when a  
 community sanction violation is committed by a forcible  
 felony violator; reenacting ss. 948.012(2)(b), 948.10(9),  
 and 958.14, F.S., relating to split sentence of probation  
 or community control and imprisonment, community control  
 programs, and violation of probation or community control  
 program, respectively, to incorporate the amendments to s.  
 948.06, F.S., in references thereto; providing  
 applicability; providing an effective date.

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

Section 1. Section 903.0351, Florida Statutes, is created  
 to read:

903.0351 Bail not permitted for forcible felony  
 violators.--A forcible felony violator as defined in s.  
 948.06(8) shall not be granted bail or any form of pretrial

29 release prior to the resolution of the probation or community  
 30 control violation hearing, unless the violation charge or arrest  
 31 is based solely on failure to pay costs, fines, or restitution  
 32 payments.

33 Section 2. Subsections (8) and (9) are added to section  
 34 948.06, Florida Statutes, to read:

35 948.06 Violation of probation or community control;  
 36 revocation; modification; continuance; failure to pay  
 37 restitution or cost of supervision.--

38 (8) For purposes of this section, a "forcible felony  
 39 violator" is a person who:

40 (a) Violates one of the following provisions:

41 1. Any forcible felony as defined in s. 776.08;

42 2. Any attempt of a forcible felony as defined in s.  
 43 776.08;

44 3. Aggravated stalking as defined in s. 784.048(3);

45 4. Any offense under chapter 794 related to sexual  
 46 battery; or

47 5. Any offense under s. 800.04; and

48 (b) Is presently on probation or community control for an  
 49 offense described in paragraph (a);

50 (c) Has previously been convicted, regardless of a  
 51 withholding of adjudication or suspended entry of sentence, of  
 52 an offense described in paragraph (a); or

53 (d) Is presently facing violation of a probation or  
 54 community control based on an allegation that he or she  
 55 committed an offense described in paragraph (a).

56       (9) In the case of a violation arising from any ground  
57 other than failure to pay costs, fines, or restitution payments,  
58 a forcible felony violator shall remain in custody pending the  
59 resolution of the probation or community control violation  
60 hearing. The court may not dismiss the probation or community  
61 control violation warrant pending against the forcible felony  
62 violator without holding a recorded hearing at which both the  
63 state and the violator are represented. If the court determines  
64 that a forcible felony violator has violated any nonmonetary  
65 terms of probation or community control, the court shall impose  
66 sanctions provided in s. 921.0024(1)(b). Before any nonprison  
67 sentence is lawfully imposed, the court must hold a Danger to  
68 the Community hearing to determine the nature and probability of  
69 any danger that the forcible felony violator poses to the  
70 community. If the court determines, by a preponderance of the  
71 evidence, that a forcible felony violator poses a danger to the  
72 community, the court shall sentence the violator according to s.  
73 921.0024(1)(b) up to and including the statutory maximum and  
74 shall neither consider the mitigating circumstances provided in  
75 s. 921.0026 nor depart downward from the sentencing guidelines.  
76 If the court finds, or the state stipulates, that the release of  
77 the forcible felony violator does not pose a danger to the  
78 community, the court may sentence the forcible felony violator  
79 according to s. 921.0024(1)(b) and consider any mitigating  
80 circumstances provided in s. 921.0026. If after a Danger to the  
81 Community hearing the court finds that the forcible felony  
82 violator does not pose a danger to the community, the court  
83 shall enter a written order stating its findings.

84 Section 3. Paragraph (b) of subsection (1) of section  
 85 921.0024, Florida Statutes, is amended to read:

86 921.0024 Criminal Punishment Code; worksheet computations;  
 87 scoresheets.--

88 (1)

89 (b) WORKSHEET KEY:

90  
 91 Legal status points are assessed when any form of legal status  
 92 existed at the time the offender committed an offense before the  
 93 court for sentencing. Four (4) sentence points are assessed for  
 94 an offender's legal status.

95  
 96 Community sanction violation points are assessed when a  
 97 community sanction violation is before the court for sentencing.  
 98 Six (6) sentence points are assessed for each community sanction  
 99 violation, and each successive community sanction violation,  
 100 unless any of the following apply: ~~however,~~

101 1. If the community sanction violation includes a new  
 102 felony conviction before the sentencing court, twelve (12)  
 103 community sanction violation points are assessed for the ~~such~~  
 104 violation, and for each successive community sanction violation  
 105 involving a new felony conviction.

106 2. If the community sanction violation is committed by a  
 107 forcible felony violator as defined in s. 948.06(8), twenty-four  
 108 (24) community sanction violation points are assessed for the  
 109 violation, and for each successive community sanction violation  
 110 involving a new felony conviction.

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112 Multiple counts of community sanction violations before the  
113 sentencing court shall not be a basis for multiplying the  
114 assessment of community sanction violation points.  
115

116 Prior serious felony points: If the offender has a primary  
117 offense or any additional offense ranked in level 8, level 9, or  
118 level 10, and one or more prior serious felonies, a single  
119 assessment of 30 points shall be added. For purposes of this  
120 section, a prior serious felony is an offense in the offender's  
121 prior record that is ranked in level 8, level 9, or level 10  
122 under s. 921.0022 or s. 921.0023 and for which the offender is  
123 serving a sentence of confinement, supervision, or other  
124 sanction or for which the offender's date of release from  
125 confinement, supervision, or other sanction, whichever is later,  
126 is within 3 years before the date the primary offense or any  
127 additional offense was committed.  
128

129 Prior capital felony points: If the offender has one or more  
130 prior capital felonies in the offender's criminal record, points  
131 shall be added to the subtotal sentence points of the offender  
132 equal to twice the number of points the offender receives for  
133 the primary offense and any additional offense. A prior capital  
134 felony in the offender's criminal record is a previous capital  
135 felony offense for which the offender has entered a plea of nolo  
136 contendere or guilty or has been found guilty; or a felony in  
137 another jurisdiction which is a capital felony in that  
138 jurisdiction, or would be a capital felony if the offense were  
139 committed in this state.

140  
141 Possession of a firearm, semiautomatic firearm, or machine gun:  
142 If the offender is convicted of committing or attempting to  
143 commit any felony other than those enumerated in s. 775.087(2)  
144 while having in his or her possession: a firearm as defined in  
145 s. 790.001(6), an additional 18 sentence points are assessed; or  
146 if the offender is convicted of committing or attempting to  
147 commit any felony other than those enumerated in s. 775.087(3)  
148 while having in his or her possession a semiautomatic firearm as  
149 defined in s. 775.087(3) or a machine gun as defined in s.  
150 790.001(9), an additional 25 sentence points are assessed.

151  
152 Sentencing multipliers:

153  
154 Drug trafficking: If the primary offense is drug trafficking  
155 under s. 893.135, the subtotal sentence points are multiplied,  
156 at the discretion of the court, for a level 7 or level 8  
157 offense, by 1.5. The state attorney may move the sentencing  
158 court to reduce or suspend the sentence of a person convicted of  
159 a level 7 or level 8 offense, if the offender provides  
160 substantial assistance as described in s. 893.135(4).

161  
162 Law enforcement protection: If the primary offense is a  
163 violation of the Law Enforcement Protection Act under s.  
164 775.0823(2), the subtotal sentence points are multiplied by 2.5.  
165 If the primary offense is a violation of s. 775.0823(3), (4),  
166 (5), (6), (7), or (8), the subtotal sentence points are  
167 multiplied by 2.0. If the primary offense is a violation of s.

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168 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
 169 Protection Act under s. 775.0823(9) or (10), the subtotal  
 170 sentence points are multiplied by 1.5.

171  
 172 Grand theft of a motor vehicle: If the primary offense is grand  
 173 theft of the third degree involving a motor vehicle and in the  
 174 offender's prior record, there are three or more grand thefts of  
 175 the third degree involving a motor vehicle, the subtotal  
 176 sentence points are multiplied by 1.5.

177  
 178 Offense related to a criminal street gang: If the offender is  
 179 convicted of the primary offense and committed that offense for  
 180 the purpose of benefiting, promoting, or furthering the  
 181 interests of a criminal street gang as prohibited under s.  
 182 874.04, the subtotal sentence points are multiplied by 1.5.

183  
 184 Domestic violence in the presence of a child: If the offender is  
 185 convicted of the primary offense and the primary offense is a  
 186 crime of domestic violence, as defined in s. 741.28, which was  
 187 committed in the presence of a child under 16 years of age who  
 188 is a family or household member as defined in s. 741.28(3) with  
 189 the victim or perpetrator, the subtotal sentence points are  
 190 multiplied by 1.5.

191 Section 4. For the purpose of incorporating the amendment  
 192 to section 948.06, Florida Statutes, in a reference thereto,  
 193 paragraph (b) of subsection (2) of section 948.012, Florida  
 194 Statutes, is reenacted to read:

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195           948.012 Split sentence of probation or community control  
196 and imprisonment.--

197           (2) The court may also impose a split sentence whereby the  
198 defendant is sentenced to a term of probation which may be  
199 followed by a period of incarceration or, with respect to a  
200 felony, into community control, as follows:

201           (b) If the offender does not meet the terms and conditions  
202 of probation or community control, the court may revoke, modify,  
203 or continue the probation or community control as provided in s.  
204 948.06. If the probation or community control is revoked, the  
205 court may impose any sentence that it could have imposed at the  
206 time the offender was placed on probation or community control.  
207 The court may not provide credit for time served for any portion  
208 of a probation or community control term toward a subsequent  
209 term of probation or community control. However, the court may  
210 not impose a subsequent term of probation or community control  
211 which, when combined with any amount of time served on preceding  
212 terms of probation or community control for offenses pending  
213 before the court for sentencing, would exceed the maximum  
214 penalty allowable as provided in s. 775.082. Such term of  
215 incarceration shall be served under applicable law or county  
216 ordinance governing service of sentences in state or county  
217 jurisdiction. This paragraph does not prohibit any other  
218 sanction provided by law.

219           Section 5. For the purpose of incorporating the amendment  
220 to section 948.06, Florida Statutes, in a reference thereto,  
221 subsection (9) of section 948.10, Florida Statutes, is reenacted  
222 to read:



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223 948.10 Community control programs.--

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

227 Section 6. For the purpose of incorporating the amendment  
228 to section 948.06, Florida Statutes, in a reference thereto,  
229 section 958.14, Florida Statutes, is reenacted to read:

230 958.14 Violation of probation or community control  
231 program.--A violation or alleged violation of probation or the  
232 terms of a community control program shall subject the youthful  
233 offender to the provisions of s. 948.06. However, no youthful  
234 offender shall be committed to the custody of the department for  
235 a substantive violation for a period longer than the maximum  
236 sentence for the offense for which he or she was found guilty,  
237 with credit for time served while incarcerated, or for a  
238 technical or nonsubstantive violation for a period longer than 6  
239 years or for a period longer than the maximum sentence for the  
240 offense for which he or she was found guilty, whichever is less,  
241 with credit for time served while incarcerated.

242 Section 7. This act shall take effect July 1, 2005, and  
243 applies to offenses committed on or after that date.