SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Criminal Justice Committee

BILL: SB 2138

INTRODUCER: Senator Crist

SUBJECT: Probation or Community Control

DATE: April 13, 2006   REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE		ACTION
1.	Davis	Cannon	CJ		**Favorable**
2.			JU		
3.			JA		
4.			WM		
5.					
6.					

I.   Summary:

Senate Bill 2138 requires the court to revoke an offender's probation or community control, adjudicate the probationer or offender guilty of the underlying offense, and impose a sentence the court might have originally imposed when the defendant:

(1) Is placed on probation or community control for a first degree felony committed on or after July 1, 2006;
(2) Has been found to have committed a violation of a condition of probation or community control during supervision; and
(3) Has previously or concurrently been found to have committed two or more violations of a condition or probation or community control during the period of supervision.

This bill substantially amends section 948.06, and amends a reference in section 921.0017, Florida Statutes.

II.   Present Situation:

Section 948.06, F.S., provides the procedures to be followed when an offender is brought before the court and charged with a violation of probation or community control.[1] The court must advise the defendant of the charges of violation and if the charge is admitted, the court may revoke, modify, or continue the probation or community control or place the probationer into community control. If the probation or community control is revoked the court must adjudge the defendant

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[1] Section 948.06 (2), F.S.

guilty (unless the defendant has been adjudged guilty), and impose any sentence which the court might have originally imposed before imposing probation or community control.[2]

If, however, the violation is not admitted by the defendant, the court may commit the defendant or choose to release him or her, with or without bail, to await a hearing, or the court may dismiss the charge.[3] If the charge is not admitted by the defendant and the charge is not dismissed, the court must give the defendant an opportunity to be heard.[4] After the hearing the court may either revoke, modify, or continue the probation or community control or place the probationer into community control. If supervision is revoked, the court must adjudge the defendant guilty of the offense (unless the defendant has been previously adjudged guilty) and impose any sentence which it might have originally imposed before the defendant was placed on supervision.[5]

III.   Effect of Proposed Changes:

Senate Bill 2138 would remove the court's discretion to modify or continue a defendant's supervision or upgrade a defendant's probation to community control under certain circumstances.

This legislation requires the court to revoke an offender's probation or community control, adjudicate the probationer or offender guilty of the underlying offense, and impose a sentence the court might have originally imposed when the defendant:

(1) Is placed on probation or community control for a first degree felony committed on or after July 1, 2006;
(2) Has been found to have committed a violation of a condition of probation or community control during supervision; and
(3) Has previously or concurrently been found to have committed two or more violations of a condition or probation or community control during the period of supervision.

IV.   Constitutional Issues:

A.   Municipality/County Mandates Restrictions:

None.

B.   Public Records/Open Meetings Issues:

None.

C.   Trust Funds Restrictions:

None.

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[2] Section 948.06(2)(b), F.S.
[3] Section 948.06(2)(c), F.S.
[4] Section 948.06(2)(d), F.S.
[5] Section 948.06(2)(e), F.S.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Economic and Demographic Research has estimated that the bill will have the following impact:

Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2006-2007	14	14	$133,518	$5,356,309	**$5,489,827**	**$5,489,827**
2007-2008	133	119	$1,424,357	$4,378,226	**$5,802,583**	**$11,292,410**
2008-2009	240	107	$3,686,546	$1,502,496	**$5,189,042**	**$16,481,451**
2009-2010	276	36	$5,206,956	$809,628	**$6,016,584**	**$22,498,035**
2010-2011	295	19	$5,894,433	$0	**$5,894,433**	**$28,392,468**
Total	**295**	**295**	**$16,345,809**	**$12,046,659**	**$28,392,468**	**$28,392,468**

Notes: Assumes admissions to state supervision with a first degree felony will violate and be sentenced to prison at a rate of .7% in the first year, 5.8% the second year, 5.2% the third year, 1.9% the fourth year, and .9% the fifth year.
All of the additional offenders sentenced to prison were assumed to serve 12 months.

Prepared by Office of Economic and Demographic Research, March 29, 2006

VI. Technical Deficiencies:

Proposed s. 948.06(3)(b), F.S., refers to a "violation" of a condition of probation or community control and proposed s. 948.05(3)(c), F.S., refers to a defendant having been found to have committed two or more "violations" of probation or community control. This language could be subject to different interpretations as to what constitutes a "violation." It could refer to a violation of a condition of supervision or it could mean a single violation report which contains multiple condition violations. Perhaps an amendment which clarifies this language would be helpful.

VII. Related Issues:

None.

VIII.   Summary of Amendments:

None.