

1  
2 An act relating to violent felony offenders;  
3 providing a short title; creating s. 903.0351,  
4 F.S.; prohibiting bail or other pretrial  
5 release for specified violent felony offenders  
6 of special concern and certain arrested persons  
7 pending a probation-violation hearing or  
8 community-control-violation hearing; providing  
9 exceptions; amending s. 948.06, F.S.; providing  
10 definitions; providing that certain alleged  
11 violations of probation or community control by  
12 violent felony offenders of special concern and  
13 certain arrested persons require a hearing and  
14 require the alleged offenders to remain in  
15 custody pending hearing; requiring findings by  
16 the court and a decision on revocation of  
17 probation or community control; creating s.  
18 948.064, F.S.; providing for notification to  
19 the criminal justice system of an offender's  
20 status as a violent felony offender of special  
21 concern or other specified offender; amending  
22 s. 921.0024, F.S.; revising the worksheet  
23 computations of the Criminal Punishment Code to  
24 provide additional community sanction violation  
25 points for certain community sanction  
26 violations committed by violent felony  
27 offenders of special concern; reenacting ss.  
28 948.012(2)(b), 948.10(9), and 958.14, F.S.,  
29 relating to split sentence of probation or  
30 community control and imprisonment, community  
31 control programs, and violation of probation or

1 community control, respectively, to incorporate  
2 the amendment to s. 948.06, F.S., in references  
3 thereto; requiring a report on implementation  
4 of this act; providing appropriations and  
5 authorizing an additional full-time equivalent  
6 position; providing for severability; providing  
7 an effective date.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11 Section 1. This act may be cited as the "Anti-Murder  
12 Act."

13 Section 2. Section 903.0351, Florida Statutes, is  
14 created to read:

15 903.0351 Restrictions on pretrial release pending  
16 probation-violation hearing or community-control-violation  
17 hearing.--

18 (1) In the instance of an alleged violation of felony  
19 probation or community control, bail or any other form of  
20 pretrial release shall not be granted prior to the resolution  
21 of the probation-violation hearing or the  
22 community-control-violation hearing to:

23 (a) A violent felony offender of special concern as  
24 defined in s. 948.06;

25 (b) A person who is on felony probation or community  
26 control for any offense committed on or after the effective  
27 date of this act and who is arrested for a qualifying offense  
28 as defined in s. 948.06(8)(c); or

29 (c) A person who is on felony probation or community  
30 control and has previously been found by a court to be a  
31 habitual violent felony offender as defined in s.

1 775.084(1)(b), a three-time violent felony offender as defined  
2 in s. 775.084(1)(c), or a sexual predator under s. 775.21, and  
3 who is arrested for committing a qualifying offense as defined  
4 in s. 948.06(8)(c) on or after the effective date of this act.

5 (2) Subsection (1) shall not apply where the alleged  
6 violation of felony probation or community control is based  
7 solely on the probationer or offender's failure to pay costs  
8 or fines or make restitution payments.

9 Section 3. Subsection (4) of section 948.06, Florida  
10 Statutes, is amended, and subsection (8) is added to that  
11 section, to read:

12 948.06 Violation of probation or community control;  
13 revocation; modification; continuance; failure to pay  
14 restitution or cost of supervision.--

15 (4) Notwithstanding any other provision of this  
16 section, a felony probationer or an offender in community  
17 control who is arrested for violating his or her probation or  
18 community control in a material respect may be taken before  
19 the court in the county or circuit in which the probationer or  
20 offender was arrested. That court shall advise him or her of  
21 ~~the such~~ charge of a violation and, if such charge is  
22 admitted, shall cause him or her to be brought before the  
23 court ~~that which~~ granted the probation or community control.  
24 If ~~the such~~ violation is not admitted by the probationer or  
25 offender, the court may commit him or her or release him or  
26 her with or without bail to await further hearing. However, if  
27 the probationer or offender is under supervision for any  
28 criminal offense proscribed in chapter 794, s. 800.04(4), (5),  
29 (6), s. 827.071, or s. 847.0145, or is a registered sexual  
30 predator or a registered sexual offender, or is under  
31 supervision for a criminal offense for which he or she would

1 meet the registration criteria in s. 775.21, s. 943.0435, or  
2 s. 944.607 but for the effective date of those sections, the  
3 court must make a finding that the probationer or offender is  
4 not a danger to the public prior to release with or without  
5 bail. In determining the danger posed by the offender's or  
6 probationer's release, the court may consider the nature and  
7 circumstances of the violation and any new offenses charged;  
8 the offender's or probationer's past and present conduct,  
9 including convictions of crimes; any record of arrests without  
10 conviction for crimes involving violence or sexual crimes; any  
11 other evidence of allegations of unlawful sexual conduct or  
12 the use of violence by the offender or probationer; the  
13 offender's or probationer's family ties, length of residence  
14 in the community, employment history, and mental condition;  
15 his or her history and conduct during the probation or  
16 community control supervision from which the violation arises  
17 and any other previous supervisions, including disciplinary  
18 records of previous incarcerations; the likelihood that the  
19 offender or probationer will engage again in a criminal course  
20 of conduct; the weight of the evidence against the offender or  
21 probationer; and any other facts the court considers relevant.  
22 The court, as soon as is practicable, shall give the  
23 probationer or offender an opportunity to be fully heard on  
24 his or her behalf in person or by counsel. After the ~~such~~  
25 hearing, the court shall make findings of fact and forward the  
26 findings to the court that ~~which~~ granted the probation or  
27 community control and to the probationer or offender or his or  
28 her attorney. The findings of fact by the hearing court are  
29 binding on the court that ~~which~~ granted the probation or  
30 community control. Upon the probationer or offender being  
31 brought before it, the court that ~~which~~ granted the probation

1 or community control may revoke, modify, or continue the  
2 probation or community control or may place the probationer  
3 into community control as provided in this section. However,  
4 the probationer or offender shall not be released and shall  
5 not be admitted to bail, but shall be brought before the court  
6 that granted the probation or community control if any  
7 violation of felony probation or community control other than  
8 a failure to pay costs or fines or make restitution payments  
9 is alleged to have been committed by:

10 (a) A violent felony offender of special concern, as  
11 defined in this section;

12 (b) A person who is on felony probation or community  
13 control for any offense committed on or after the effective  
14 date of this act and who is arrested for a qualifying offense  
15 as defined in this section; or

16 (c) A person who is on felony probation or community  
17 control and has previously been found by a court to be a  
18 habitual violent felony offender as defined in s.  
19 775.084(1)(b), a three-time violent felony offender as defined  
20 in s. 775.084(1)(c), or a sexual predator under s. 775.21, and  
21 who is arrested for committing a qualifying offense as defined  
22 in this section on or after the effective date of this act.

23 (8)(a) In addition to complying with the provisions of  
24 subsections (1)-(7), this subsection provides further  
25 requirements regarding a probationer or offender in community  
26 control who is a violent felony offender of special concern.  
27 The provisions of this subsection shall control over any  
28 conflicting provisions in subsections (1)-(7). For purposes of  
29 this subsection, the term "convicted" means a determination of  
30 guilt which is the result of a trial or the entry of a plea of  
31

1 guilty or nolo contendere, regardless of whether adjudication  
2 is withheld.

3 (b) For purposes of this section and ss. 903.0351,  
4 948.064, and 921.0024, the term "violent felony offender of  
5 special concern" means a person who is on:

6 1. Felony probation or community control related to  
7 the commission of a qualifying offense committed on or after  
8 the effective date of this act;

9 2. Felony probation or community control for any  
10 offense committed on or after the effective date of this act,  
11 and has previously been convicted of a qualifying offense;

12 3. Felony probation or community control for any  
13 offense committed on or after the effective date of this act,  
14 and is found to have violated that probation or community  
15 control by committing a qualifying offense;

16 4. Felony probation or community control and has  
17 previously been found by a court to be a habitual violent  
18 felony offender as defined in s. 775.084(1)(b) and has  
19 committed a qualifying offense on or after the effective date  
20 of this act;

21 5. Felony probation or community control and has  
22 previously been found by a court to be a three-time violent  
23 felony offender as defined in s. 775.084(1)(c) and has  
24 committed a qualifying offense on or after the effective date  
25 of this act; or

26 6. Felony probation or community control and has  
27 previously been found by a court to be a sexual predator under  
28 s. 775.21 and has committed a qualifying offense on or after  
29 the effective date of this act.

30 (c) For purposes of this section, the term "qualifying  
31 offense" means any of the following:

- 1           1. Kidnapping or attempted kidnapping under s. 787.01,  
2 false imprisonment of a child under the age of 13 under s.  
3 787.02(3), or luring or enticing a child under s.  
4 787.025(2)(b) or (c).
- 5           2. Murder or attempted murder under s. 782.04,  
6 attempted felony murder under s. 782.051, or manslaughter  
7 under s. 782.07.
- 8           3. Aggravated battery or attempted aggravated battery  
9 under s. 784.045.
- 10           4. Sexual battery or attempted sexual battery under s.  
11 794.011(2), (3), (4), or (8)(b) or (c).
- 12           5. Lewd or lascivious battery or attempted lewd or  
13 lascivious battery under s. 800.04(4), lewd or lascivious  
14 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious  
15 conduct under s. 800.04(6)(b), or lewd or lascivious  
16 exhibition under s. 800.04(7)(c).
- 17           6. Robbery or attempted robbery under s. 812.13,  
18 carjacking or attempted carjacking under s. 812.133, or home  
19 invasion robbery or attempted home invasion robbery under s.  
20 812.135.
- 21           7. Lewd or lascivious offense upon or in the presence  
22 of an elderly or disabled person or attempted lewd or  
23 lascivious offense upon or in the presence of an elderly or  
24 disabled person under s. 825.1025.
- 25           8. Sexual performance by a child or attempted sexual  
26 performance by a child under s. 827.071.
- 27           9. Computer pornography under s. 847.0135(2) or (3),  
28 transmission of child pornography under s. 847.0137, or  
29 selling or buying of minors under s. 847.0145.
- 30           10. Poisoning food or water under s. 859.01.
- 31           11. Abuse of a dead human body under s. 872.06.

1           12. Any burglary offense or attempted burglary offense  
2 that is either a first-degree felony or second-degree felony  
3 under s. 810.02(2) or (3).

4           13. Arson or attempted arson under s. 806.01(1).

5           14. Aggravated assault under s. 784.021.

6           15. Aggravated stalking under s. 784.048(3), (4), (5),  
7 or (7).

8           16. Aircraft piracy under s. 860.16.

9           17. Unlawful throwing, placing, or discharging of a  
10 destructive device or bomb under s. 790.161(2), (3), or (4).

11           18. Treason under s. 876.32.

12           19. Any offense committed in another jurisdiction  
13 which would be an offense listed in this paragraph if that  
14 offense had been committed in this state.

15           (d) In the case of an alleged violation of probation  
16 or community control other than a failure to pay costs, fines,  
17 or restitution, the following individuals shall remain in  
18 custody pending the resolution of the probation or community  
19 control violation:

20           1. A violent felony offender of special concern, as  
21 defined in this section;

22           2. A person who is on felony probation or community  
23 control for any offense committed on or after the effective  
24 date of this act and who is arrested for a qualifying offense  
25 as defined in this section; or

26           3. A person who is on felony probation or community  
27 control and has previously been found by a court to be a  
28 habitual violent felony offender as defined in s.  
29 775.084(1)(b), a three-time violent felony offender as defined  
30 in s. 775.084(1)(c), or a sexual predator under s. 775.21, and  
31



1 who is arrested for committing a qualifying offense as defined  
2 in this section on or after the effective date of this act.

3  
4 The court shall not dismiss the probation or community control  
5 violation warrant pending against an offender enumerated in  
6 this paragraph without holding a recorded  
7 violation-of-probation hearing at which both the state and the  
8 offender are represented.

9 (e) If the court, after conducting the hearing  
10 required by paragraph (d), determines that a violent felony  
11 offender of special concern has committed a violation of  
12 probation or community control other than a failure to pay  
13 costs, fines, or restitution, the court shall:

14 1. Make written findings as to whether or not the  
15 violent felony offender of special concern poses a danger to  
16 the community. In determining the danger to the community  
17 posed by the offender's release, the court shall base its  
18 findings on one or more of the following:

19 a. The nature and circumstances of the violation and  
20 any new offenses charged.

21 b. The offender's present conduct, including criminal  
22 convictions.

23 c. The offender's amenability to nonincarcerative  
24 sanctions based on his or her history and conduct during the  
25 probation or community control supervision from which the  
26 violation hearing arises and any other previous supervisions,  
27 including disciplinary records of previous incarcerations.

28 d. The weight of the evidence against the offender.

29 e. Any other facts the court considers relevant.

30 2. Decide whether to revoke the probation or community  
31 control.

1       a. If the court has found that a violent felony  
2 offender of special concern poses a danger to the community,  
3 the court shall revoke probation and shall sentence the  
4 offender up to the statutory maximum, or longer if permitted  
5 by law.

6       b. If the court has found that a violent felony  
7 offender of special concern does not pose a danger to the  
8 community, the court may revoke, modify, or continue the  
9 probation or community control or may place the probationer  
10 into community control as provided in this section.

11       Section 4. Section 948.064, Florida Statutes, is  
12 created to read:

13       948.064 Notification of status as a violent felony  
14 offender of special concern.--

15       (1) To facilitate the information available to the  
16 court at first appearance hearings and at all subsequent  
17 hearings for "violent felony offenders of special concern," as  
18 defined in s. 948.06, the Department of Corrections shall, no  
19 later than October 1, 2007, develop a system for identifying  
20 the offenders in the department's database and post on the  
21 Department of Law Enforcement's Criminal Justice Intranet a  
22 listing of all "violent felony offenders of special concern"  
23 who are under community supervision.

24       (2) The county where the arrested person is booked  
25 shall provide the following information to the court at the  
26 time of the first appearance:

27       (a) State and national criminal history information;

28       (b) All criminal justice information available in the  
29 Florida Crime Information Center and the National Crime  
30 Information Center; and  
31



1 Legal status points are assessed when any form of legal status  
2 existed at the time the offender committed an offense before  
3 the court for sentencing. Four (4) sentence points are  
4 assessed for an offender's legal status.

5  
6 Community sanction violation points are assessed when a  
7 community sanction violation is before the court for  
8 sentencing. Six (6) sentence points are assessed for each  
9 community sanction violation, ~~and each successive community~~  
10 ~~sanction violation, unless any of the following apply:~~

11 ~~however,~~

12 1. If the community sanction violation includes a new  
13 felony conviction before the sentencing court, twelve (12)  
14 community sanction violation points are assessed for ~~the such~~  
15 violation, and for each successive community sanction  
16 violation involving a new felony conviction.

17 2. If the community sanction violation is committed by  
18 a violent felony offender of special concern as defined in s.  
19 948.06:

20 a. Twelve (12) community sanction violation points are  
21 assessed for the violation and for each successive violation  
22 of felony probation or community control where:

23 (I) The violation does not include a new felony  
24 conviction; and

25 (II) The community sanction violation is not based  
26 solely on the probationer or offender's failure to pay costs  
27 or fines or make restitution payments.

28 b. Twenty-four (24) community sanction violation  
29 points are assessed for the violation and for each successive  
30 violation of felony probation or community control where the  
31 violation includes a new felony conviction.

1  
2 Multiple counts of community sanction violations before the  
3 sentencing court shall not be a basis for multiplying the  
4 assessment of community sanction violation points.  
5  
6 Prior serious felony points: If the offender has a primary  
7 offense or any additional offense ranked in level 8, level 9,  
8 or level 10, and one or more prior serious felonies, a single  
9 assessment of thirty (30) ~~30~~ points shall be added. For  
10 purposes of this section, a prior serious felony is an offense  
11 in the offender's prior record that is ranked in level 8,  
12 level 9, or level 10 under s. 921.0022 or s. 921.0023 and for  
13 which the offender is serving a sentence of confinement,  
14 supervision, or other sanction or for which the offender's  
15 date of release from confinement, supervision, or other  
16 sanction, whichever is later, is within 3 years before the  
17 date the primary offense or any additional offense was  
18 committed.  
19  
20 Prior capital felony points: If the offender has one or more  
21 prior capital felonies in the offender's criminal record,  
22 points shall be added to the subtotal sentence points of the  
23 offender equal to twice the number of points the offender  
24 receives for the primary offense and any additional offense. A  
25 prior capital felony in the offender's criminal record is a  
26 previous capital felony offense for which the offender has  
27 entered a plea of nolo contendere or guilty or has been found  
28 guilty; or a felony in another jurisdiction which is a capital  
29 felony in that jurisdiction, or would be a capital felony if  
30 the offense were committed in this state.  
31

1 Possession of a firearm, semiautomatic firearm, or machine  
2 gun: If the offender is convicted of committing or attempting  
3 to commit any felony other than those enumerated in s.  
4 775.087(2) while having in his or her possession: a firearm as  
5 defined in s. 790.001(6), an additional eighteen (18) ~~18~~  
6 sentence points are assessed; or if the offender is convicted  
7 of committing or attempting to commit any felony other than  
8 those enumerated in s. 775.087(3) while having in his or her  
9 possession a semiautomatic firearm as defined in s. 775.087(3)  
10 or a machine gun as defined in s. 790.001(9), an additional  
11 twenty-five (25) ~~25~~ sentence points are assessed.

12  
13 Sentencing multipliers:

14  
15 Drug trafficking: If the primary offense is drug trafficking  
16 under s. 893.135, the subtotal sentence points are multiplied,  
17 at the discretion of the court, for a level 7 or level 8  
18 offense, by 1.5. The state attorney may move the sentencing  
19 court to reduce or suspend the sentence of a person convicted  
20 of a level 7 or level 8 offense, if the offender provides  
21 substantial assistance as described in s. 893.135(4).

22  
23 Law enforcement protection: If the primary offense is a  
24 violation of the Law Enforcement Protection Act under s.  
25 775.0823(2), the subtotal sentence points are multiplied by  
26 2.5. If the primary offense is a violation of s. 775.0823(3),  
27 (4), (5), (6), (7), or (8), the subtotal sentence points are  
28 multiplied by 2.0. If the primary offense is a violation of s.  
29 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
30 Protection Act under s. 775.0823(9) or (10), the subtotal  
31 sentence points are multiplied by 1.5.

1  
2 Grand theft of a motor vehicle: If the primary offense is  
3 grand theft of the third degree involving a motor vehicle and  
4 in the offender's prior record, there are three or more grand  
5 thefts of the third degree involving a motor vehicle, the  
6 subtotal sentence points are multiplied by 1.5.

7  
8 Offense related to a criminal street gang: If the offender is  
9 convicted of the primary offense and committed that offense  
10 for the purpose of benefiting, promoting, or furthering the  
11 interests of a criminal street gang as prohibited under s.  
12 874.04, the subtotal sentence points are multiplied by 1.5.

13  
14 Domestic violence in the presence of a child: If the offender  
15 is convicted of the primary offense and the primary offense is  
16 a crime of domestic violence, as defined in s. 741.28, which  
17 was committed in the presence of a child under 16 years of age  
18 who is a family or household member as defined in s. 741.28(3)  
19 with the victim or perpetrator, the subtotal sentence points  
20 are multiplied by 1.5.

21 Section 6. For the purpose of incorporating the  
22 amendment made by this act to section 948.06, Florida  
23 Statutes, in a reference thereto, paragraph (b) of subsection  
24 (2) of section 948.012, Florida Statutes, is reenacted to  
25 read:

26 948.012 Split sentence of probation or community  
27 control and imprisonment.--

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

1           (b) If the offender does not meet the terms and  
2 conditions of probation or community control, the court may  
3 revoke, modify, or continue the probation or community control  
4 as provided in s. 948.06. If the probation or community  
5 control is revoked, the court may impose any sentence that it  
6 could have imposed at the time the offender was placed on  
7 probation or community control. The court may not provide  
8 credit for time served for any portion of a probation or  
9 community control term toward a subsequent term of probation  
10 or community control. However, the court may not impose a  
11 subsequent term of probation or community control which, when  
12 combined with any amount of time served on preceding terms of  
13 probation or community control for offenses pending before the  
14 court for sentencing, would exceed the maximum penalty  
15 allowable as provided in s. 775.082. Such term of  
16 incarceration shall be served under applicable law or county  
17 ordinance governing service of sentences in state or county  
18 jurisdiction. This paragraph does not prohibit any other  
19 sanction provided by law.

20           Section 7. For the purpose of incorporating the  
21 amendment made by this act to section 948.06, Florida  
22 Statutes, in a reference thereto, subsection (9) of section  
23 948.10, Florida Statutes, is reenacted to read:

24           948.10 Community control programs.--

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

28           Section 8. For the purpose of incorporating the  
29 amendment made by this act to section 948.06, Florida  
30 Statutes, in a reference thereto, section 958.14, Florida  
31 Statutes, is reenacted to read:



1           958.14 Violation of probation or community control  
2 program.--A violation or alleged violation of probation or the  
3 terms of a community control program shall subject the  
4 youthful offender to the provisions of s. 948.06. However, no  
5 youthful offender shall be committed to the custody of the  
6 department for a substantive violation for a period longer  
7 than the maximum sentence for the offense for which he or she  
8 was found guilty, with credit for time served while  
9 incarcerated, or for a technical or nonsubstantive violation  
10 for a period longer than 6 years or for a period longer than  
11 the maximum sentence for the offense for which he or she was  
12 found guilty, whichever is less, with credit for time served  
13 while incarcerated.

14           Section 9. (1) The Department of Corrections shall  
15 coordinate preparation of a report on implementation of the  
16 Anti-Murder Act and shall submit the report to the Governor,  
17 the President of the Senate, and the Speaker of the House of  
18 Representatives no later than February 1, 2008.

19           (2) The department shall convene the participation of,  
20 and coordinate preparation of the report with, representatives  
21 of:

22           (a) The Office of the State Courts Administrator on  
23 behalf of the state courts system;

24           (b) The Florida Prosecuting Attorneys Association;

25           (c) The Florida Public Defender Association;

26           (d) The Florida Association of Criminal Defense  
27 Lawyers; and

28           (e) Any other units of government, organizations, or  
29 entities which the department considers necessary.

30           (3) At a minimum, the report must identify any legal,  
31 fiscal, or administrative impediments to full implementation

1 of this act and recommend any legislative action related to  
2 implementation of this act.

3       Section 10. The sums of \$39,906 in recurring funds and  
4 \$221,526 in nonrecurring funds are appropriated from the  
5 General Revenue Fund to the Office of State Courts  
6 Administrator for the 2006-2007 fiscal year for the purpose of  
7 implementing the provisions of this act, and one full-time  
8 equivalent position and associated rate of 53,093 are  
9 authorized. The sum of \$46,330 in recurring funds is  
10 appropriated from the General Revenue Fund to the Office of  
11 State Courts Administrator for the 2007-2008 fiscal year.

12       Section 11. The sum of \$158,756 in recurring funds is  
13 appropriated from the General Revenue Fund to the Department  
14 of Corrections for operating costs for the 2006-2007 fiscal  
15 year. The sum of \$316,180 in recurring funds is appropriated  
16 from the General Revenue Fund to the Department of Corrections  
17 for operating costs for the 2007-2008 fiscal year.

18       Section 12. If any provision of this act or its  
19 application to any person or circumstance is held invalid, the  
20 invalidity does not affect other provisions or applications of  
21 the act which can be given effect without the invalid  
22 provision or application, and to this end the provisions of  
23 this act are severable.

24       Section 13. This act shall take effect upon becoming a  
25 law.

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