

Bill No. CS for SB 1792

Barcode 310120

CHAMBER ACTION

Senate

House

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The Committee on Criminal and Civil Justice Appropriations
(Argenziano) recommended the following amendment:

Senate Amendment (with title amendment)

On page 5, between lines 26 and 27,

insert:

Section 5. Subsection (1) of section 948.06, Florida
Statutes, is amended and paragraph (h) is added to subsection
(2) of that section, to read:

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

(1)(a) Whenever within the period of probation or
community control there are reasonable grounds to believe that
a probationer or offender in community control has violated
his or her probation or community control in a material
respect, any law enforcement officer who is aware of the
probationary or community control status of the probationer or
offender in community control or any parole or probation
supervisor may arrest or request any county or municipal law

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1 enforcement officer to arrest such probationer or offender
2 without warrant wherever found and ~~forthwith~~ return him or her
3 to the court granting such probation or community control.

4 (b) Any committing trial court judge may issue a
5 warrant, upon the facts being made known to him or her by
6 affidavit of one having knowledge of such facts, for the
7 arrest of the probationer or offender, returnable forthwith
8 before the court granting such probation or community control.
9 In lieu of issuing a warrant for arrest, the committing trial
10 court judge may issue a notice to appear if the probationer or
11 offender in community control has never been convicted of
12 committing, and is not currently alleged to have committed, a
13 qualifying offense as defined in this section.

14 (c) Any parole or probation supervisor, any officer
15 authorized to serve criminal process, or any peace officer of
16 this state is authorized to serve and execute such warrant.
17 Any parole or probation supervisor is authorized to serve such
18 notice to appear.

19 (d) Upon the filing of an affidavit alleging a
20 violation of probation or community control and following
21 issuance of a warrant under s. 901.02, a warrantless arrest
22 under this section, or a notice to appear under this section,
23 the probationary period is tolled until the court enters a
24 ruling on the violation. Notwithstanding the tolling of
25 probation ~~as provided in this subsection~~, the court shall
26 retain jurisdiction over the offender for any violation of the
27 conditions of probation or community control that is alleged
28 to have occurred during the tolling period. The probation
29 officer is permitted to continue to supervise any offender who
30 remains available to the officer for supervision until the
31 supervision expires pursuant to the order of probation or

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1 community control or until the court revokes or terminates the
2 probation or community control, whichever comes first.

3 (e) The chief judge of each judicial circuit shall
4 direct the department to use a notification letter of a
5 technical violation in appropriate cases in lieu of a
6 violation report, affidavit, and warrant when the alleged
7 violation is not a new felony or misdemeanor offense. Such
8 direction must be in writing and must specify the types of
9 specific violations which are to be reported by a notification
10 letter of a technical violation, any exceptions to those
11 violations, and the required process for submission. At the
12 direction of the chief judge, the department shall send the
13 notification letter of a technical violation to the court.

14 (f) The court may allow the department to file an
15 affidavit, notification letter, violation report, or other
16 report under this section by facsimile or electronic
17 submission.

18 (2)

19 (h)1. For each case in which the offender admits to
20 committing a violation or is found to have committed a
21 violation, the department shall provide the court with a
22 recommendation as to disposition by the court. The department
23 shall provide the reasons for its recommendation and include
24 an evaluation of:

25 a. The appropriateness or inappropriateness of
26 community facilities, programs, or services for treating or
27 supervising the offender;

28 b. The ability or inability of the department to
29 provide an adequate level of supervision of the offender in
30 the community and a statement of what constitutes an adequate
31 level of supervision; and

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1 c. The existence of treatment modalities that the
2 offender could use but that do not currently exist in the
3 community.

4 2. The report must also include a summary of the
5 offender's prior supervision history, including the offender's
6 prior participation in treatment, educational, and vocational
7 programs, and any other actions by or circumstances concerning
8 the offender which are relevant.

9 3. The court may specify whether the recommendation or
10 report must be oral or written and may waive the requirement
11 for a report in an individual case or a class of cases. This
12 paragraph does not prohibit the department from making any
13 other report or recommendation that is provided for by law or
14 requested by the court.

15 Section 6. The Department of Corrections shall conduct
16 a caseload and risk-assessment study to determine management
17 caseload ratios for probation and community control and
18 provide supervision based on an offender's level of risk. The
19 department shall submit a final report to the Governor, the
20 President of the Senate, and the Speaker of the House of
21 Representatives by December 31, 2007.

22
23 (Redesignate subsequent sections.)

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25

26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 On page 1, line 25, after the semicolon

29

30 insert:

31 amending s. 948.06, F.S.; authorizing the court

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1 to issue a notice to appear for certain
2 violators; providing for service of notices to
3 appear; providing for tolling of the
4 probationary period; providing for the use of a
5 notification letter of a technical violation of
6 a term of probation or community control;
7 authorizing the court to allow the submission
8 of certain documents electronically or by
9 facsimile; requiring the Department of
10 Corrections to provide the court with
11 recommendations as to disposition by the court;
12 requiring the Department of Corrections to
13 conduct a study and submit a report;

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