

1 a term of probation or community control;
2 authorizing the court to allow the submission
3 of certain documents electronically or by
4 facsimile; requiring the Department of
5 Corrections to provide the court with
6 recommendations as to disposition by the court;
7 requiring the Department of Corrections to
8 conduct a study and submit a report; providing
9 an effective date.

10

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

12

13 Section 1. Subsection (1) of section 316.003, Florida
14 Statutes, is amended to read:

15 316.003 Definitions.--The following words and phrases,
16 when used in this chapter, shall have the meanings
17 respectively ascribed to them in this section, except where
18 the context otherwise requires:

19 (1) AUTHORIZED EMERGENCY VEHICLES.--Vehicles of the
20 fire department (fire patrol), police vehicles, and such
21 ambulances and emergency vehicles of municipal departments,
22 public service corporations operated by private corporations,
23 the Department of Environmental Protection, the Department of
24 Health, ~~and~~ the Department of Transportation, and the
25 Department of Corrections as are designated or authorized by
26 their respective department or the chief of police of an
27 incorporated city or any sheriff of any of the various
28 counties.

29 Section 2. Subsection (3) of section 316.2397, Florida
30 Statutes, is amended to read:

31 316.2397 Certain lights prohibited; exceptions.--

1 (3) Vehicles of the fire department and fire patrol,
2 including vehicles of volunteer firefighters as permitted
3 under s. 316.2398, vehicles of medical staff physicians or
4 technicians of medical facilities licensed by the state as
5 authorized under s. 316.2398, ambulances as authorized under
6 this chapter, and buses and taxicabs as authorized under s.
7 316.2399 are permitted to show or display red lights. Vehicles
8 of the fire department, fire patrol, police vehicles, and such
9 ambulances and emergency vehicles of municipal and county
10 departments, public service corporations operated by private
11 corporations, the Department of Environmental Protection, the
12 Department of Transportation, ~~and~~ the Department of
13 Agriculture and Consumer Services, and the Department of
14 Corrections as are designated or authorized by their
15 respective department or the chief of police of an
16 incorporated city or any sheriff of any county are hereby
17 authorized to operate emergency lights and sirens in an
18 emergency. Wreckers, mosquito control fog and spray vehicles,
19 and emergency vehicles of governmental departments or public
20 service corporations may show or display amber lights when in
21 actual operation or when a hazard exists provided they are not
22 used going to and from the scene of operation or hazard
23 without specific authorization of a law enforcement officer or
24 law enforcement agency. Wreckers must use amber rotating or
25 flashing lights while performing recoveries and loading on the
26 roadside day or night, and may use such lights while towing a
27 vehicle on wheel lifts, slings, or under reach if the operator
28 of the wrecker deems such lights necessary. A flatbed, car
29 carrier, or rollback may not use amber rotating or flashing
30 lights when hauling a vehicle on the bed unless it creates a
31 hazard to other motorists because of protruding objects.

1 Further, escort vehicles may show or display amber lights when
2 in the actual process of escorting oversized equipment,
3 material, or buildings as authorized by law. Vehicles of
4 private watch, guard, or patrol agencies licensed pursuant to
5 chapter 493 may show or display amber lights while patrolling
6 condominium, cooperative, and private residential and business
7 communities by which employed and which traverse public
8 streets or highways.

9 Section 3. Subsection (3) of section 945.215, Florida
10 Statutes, is amended to read:

11 945.215 Inmate welfare and employee benefit trust
12 funds.--

13 (3) EMPLOYEE BENEFIT TRUST FUND; DEPARTMENT OF
14 CORRECTIONS.--

15 (a) The department may establish an Employee Benefit
16 Trust Fund. Trust fund sources may be derived from any of the
17 following:

18 1. Proceeds of vending machines, staff canteens, or
19 other such services not intended for use by inmates.

20 2. Net proceeds of the recycling program.

21 ~~3.2-~~ Donations, except for donations made by, or on
22 behalf of, an individual inmate, and except for donations made
23 by a person who provides, or seeks to provide, goods or
24 services to the department under a contract or an agreement,
25 individually or through a corporation or organization.

26 ~~4.3-~~ Additional trust funds and grants which may
27 become available.

28 (b) Funds from the Employee Benefit Trust Fund may be
29 used for employee appreciation programs and activities and to
30 construct, operate, and maintain training and recreation
31 facilities at correctional facilities for the exclusive use of

1 department employees. Such facilities are the property of the
2 department and must provide the maximum benefit to all
3 interested employees, regardless of gender.

4 (c) The Employee Benefit Trust Fund shall be
5 established as a separate and distinct set of accounts, which
6 shall be maintained centrally by the department, overseen by
7 the secretary, and subject to an annual audit by the
8 department's inspector general.

9 (d) The department shall maintain sufficient data to
10 provide an annual report, upon request, to the President of
11 the Senate, the Speaker of the House of Representatives, and
12 the Executive Office of the Governor on December 1 which lists
13 the types of services provided using moneys in the trust fund
14 and the allocations of funds spent.

15 (e) The department shall adopt rules under ss.
16 120.536(1) and 120.54 to administer this subsection.

17 Section 4. Section 945.21501, Florida Statutes, is
18 amended to read:

19 945.21501 Employee Benefit Trust Fund.--

20 (1) There is hereby created in the Department of
21 Corrections the Employee Benefit Trust Fund. The purpose of
22 the trust fund shall be to:

23 (a) Construct, operate, and maintain training and
24 recreation facilities at correctional facilities for the
25 exclusive use of department employees. Any facility
26 constructed using funds from the Employee Benefit Trust Fund
27 is the property of the department and must provide the maximum
28 benefit to all interested employees, regardless of gender.

29 (b) Provide funding for employee appreciation programs
30 and activities designed to enhance the morale of employees.
31

1 Moneys shall be deposited in the trust fund as provided in s.
2 945.215.

3 (2) Notwithstanding the provisions of s. 216.301 and
4 pursuant to s. 216.351, any balance in the trust fund at the
5 end of any fiscal year shall remain in the trust fund at the
6 end of the year and shall be available for carrying out the
7 purposes of the trust fund.

8 (3) The department shall adopt rules pursuant to ss.
9 120.536(1) and 120.54 to administer this section.

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

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

16 (1)(a) Whenever within the period of probation or
17 community control there are reasonable grounds to believe that
18 a probationer or offender in community control has violated
19 his or her probation or community control in a material
20 respect, any law enforcement officer who is aware of the
21 probationary or community control status of the probationer or
22 offender in community control or any parole or probation
23 supervisor may arrest or request any county or municipal law
24 enforcement officer to arrest such probationer or offender
25 without warrant wherever found and ~~forthwith~~ return him or her
26 to the court granting such probation or community control.

27 (b) Any committing trial court judge may issue a
28 warrant, upon the facts being made known to him or her by
29 affidavit of one having knowledge of such facts, for the
30 arrest of the probationer or offender, returnable forthwith
31 before the court granting such probation or community control.

1 In lieu of issuing a warrant for arrest, the committing trial
2 court judge may issue a notice to appear if the probationer or
3 offender in community control has never been convicted of
4 committing, and is not currently alleged to have committed, a
5 qualifying offense as defined in this section.

6 (c) Any parole or probation supervisor, any officer
7 authorized to serve criminal process, or any peace officer of
8 this state is authorized to serve and execute such warrant.
9 Any parole or probation supervisor is authorized to serve such
10 notice to appear.

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

26 (e) The chief judge of each judicial circuit shall
27 direct the department to use a notification letter of a
28 technical violation in appropriate cases in lieu of a
29 violation report, affidavit, and warrant when the alleged
30 violation is not a new felony or misdemeanor offense. Such
31 direction must be in writing and must specify the types of

1 specific violations which are to be reported by a notification
2 letter of a technical violation, any exceptions to those
3 violations, and the required process for submission. At the
4 direction of the chief judge, the department shall send the
5 notification letter of a technical violation to the court.

6 (f) The court may allow the department to file an
7 affidavit, notification letter, violation report, or other
8 report under this section by facsimile or electronic
9 submission.

10 (2)

11 (h)1. For each case in which the offender admits to
12 committing a violation or is found to have committed a
13 violation, the department shall provide the court with a
14 recommendation as to disposition by the court. The department
15 shall provide the reasons for its recommendation and include
16 an evaluation of:

17 a. The appropriateness or inappropriateness of
18 community facilities, programs, or services for treating or
19 supervising the offender;

20 b. The ability or inability of the department to
21 provide an adequate level of supervision of the offender in
22 the community and a statement of what constitutes an adequate
23 level of supervision; and

24 c. The existence of treatment modalities that the
25 offender could use but that do not currently exist in the
26 community.

27 2. The report must also include a summary of the
28 offender's prior supervision history, including the offender's
29 prior participation in treatment, educational, and vocational
30 programs, and any other actions by or circumstances concerning
31 the offender which are relevant.

1 3. The court may specify whether the recommendation or
2 report must be oral or written and may waive the requirement
3 for a report in an individual case or a class of cases. This
4 paragraph does not prohibit the department from making any
5 other report or recommendation that is provided for by law or
6 requested by the court.

7 Section 6. The Department of Corrections shall conduct
8 a caseload and risk-assessment study to determine management
9 caseload ratios for probation and community control and
10 provide supervision based on an offender's level of risk. The
11 department shall submit a final report to the Governor, the
12 President of the Senate, and the Speaker of the House of
13 Representatives by December 31, 2007.

14 Section 7. This act shall take effect upon becoming a
15 law.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS for SB 1792
4 Authorizes judges to issue notices to appear to offenders who
5 are alleged to have violated probation or community control,
6 rather than having them arrested and jailed.
7 Provides for service of the notice by a probation officer, and
8 tolls the probationary period when a notice to appear is
9 issued or a warrantless arrest is made.
10 Requires the chief judge of each judicial circuit to direct
11 the Department of Corrections to use a notification letter to
12 the court when reporting a violation of probation that does
13 not involve a new criminal offense. The judge has discretion
14 to determine when it is appropriate to use a notification
15 letter.
16 Requires the department to provide the court with a
17 recommendation for disposition of a case in which an offender
18 admits to or is found to have violated probation or community
19 control.
20 Permits the department to deliver affidavits, violation
21 reports, notification letters of technical violation, and
22 other documents to the courts by e-mail or facsimile, if
23 authorized by the court.
24 Directs the department to study the effect of removing the
25 caseload restrictions and managing probation officer caseloads
26 based upon an assessment of risk, and report the results to
27 the Legislature and the Governor.
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