

Bill No. SB 1794

Barcode 090590

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Wise) recommended the following ~~substitute for~~ amendment ~~(485326)~~:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. 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 the 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 2. 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           Section 3. This act shall take effect upon becoming a  
23 law.

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

27 And the title is amended as follows:

28           Delete everything before the enacting clause

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30 and insert:

31                                   A bill to be entitled

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1 An act relating to probation; amending s.  
2 948.06, F.S.; authorizing the court to issue a  
3 notice to appear for certain violators;  
4 providing for service of notices to appear;  
5 providing for tolling of the probationary  
6 period; providing for the use of a notification  
7 letter of a technical violation of a term of  
8 probation or community control; authorizing the  
9 court to allow the submission of certain  
10 documents electronically or by facsimile;  
11 requiring the Department of Corrections to  
12 provide the court with recommendations as to  
13 disposition by the court; requiring the  
14 Department of Corrections to conduct a study  
15 and submit a report; providing an effective  
16 date.

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