

By Senator Dockery

15-03774A-08

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1 A bill to be entitled

2 An act relating to felony offenders; amending s. 948.06,  
3 F.S.; clarifying provisions governing the procedures to be  
4 used following the arrest of a felony probationer or an  
5 offender in community control for a material violation of  
6 probation or community control; providing an effective  
7 date.

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

10  
11 Section 1. Subsection (4) of section 948.06, Florida  
12 Statutes, is amended to read:

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

16 (4) Notwithstanding any other provision of this section and  
17 except for any conflicting provision in subsection (8), a felony  
18 probationer or an offender in community control who is arrested  
19 for violating his or her probation or community control in a  
20 material respect may be taken before the court in the county or  
21 circuit in which the probationer or offender was arrested. That  
22 court shall advise him or her of the charge of a violation and,  
23 if such charge is admitted, shall cause him or her to be brought  
24 before the court that granted the probation or community control.  
25 If the violation is not admitted by the probationer or offender,  
26 the court may commit him or her or release him or her with or  
27 without bail to await further hearing. However, if the  
28 probationer or offender is under supervision for any criminal  
29 offense proscribed in chapter 794, s. 800.04(4), (5), (6), s.

15-03774A-08

20082852\_\_

30 | 827.071, or s. 847.0145, or is a registered sexual predator or a  
31 | registered sexual offender, or is under supervision for a  
32 | criminal offense for which he or she would meet the registration  
33 | criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the  
34 | effective date of those sections, the court must make a finding  
35 | that the probationer or offender is not a danger to the public  
36 | prior to release with or without bail. In determining the danger  
37 | posed by the offender's or probationer's release, the court may  
38 | consider the nature and circumstances of the violation and any  
39 | new offenses charged; the offender's or probationer's past and  
40 | present conduct, including convictions of crimes; any record of  
41 | arrests without conviction for crimes involving violence or  
42 | sexual crimes; any other evidence of allegations of unlawful  
43 | sexual conduct or the use of violence by the offender or  
44 | probationer; the offender's or probationer's family ties, length  
45 | of residence in the community, employment history, and mental  
46 | condition; his or her history and conduct during the probation or  
47 | community control supervision from which the violation arises and  
48 | any other previous supervisions, including disciplinary records  
49 | of previous incarcerations; the likelihood that the offender or  
50 | probationer will engage again in a criminal course of conduct;  
51 | the weight of the evidence against the offender or probationer;  
52 | and any other facts the court considers relevant. The court, as  
53 | soon as is practicable, shall give the probationer or offender an  
54 | opportunity to be fully heard on his or her behalf in person or  
55 | by counsel. After the hearing, the court shall make findings of  
56 | fact and forward the findings to the court that granted the  
57 | probation or community control and to the probationer or offender  
58 | or his or her attorney. The findings of fact by the hearing court

15-03774A-08

20082852\_\_

59 are binding on the court that granted the probation or community  
60 control. Upon the probationer or offender being brought before  
61 it, the court that granted the probation or community control may  
62 revoke, modify, or continue the probation or community control or  
63 may place the probationer into community control as provided in  
64 this section. However, the probationer or offender shall not be  
65 released and shall not be admitted to bail, but shall be brought  
66 before the court that granted the probation or community control  
67 if any violation of felony probation or community control other  
68 than a failure to pay costs or fines or make restitution payments  
69 is alleged to have been committed by:

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

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

76 (c) A person who is on felony probation or community  
77 control and has previously been found by a court to be a habitual  
78 violent felony offender as defined in s. 775.084(1)(b), a three-  
79 time violent felony offender as defined in s. 775.084(1)(c), or a  
80 sexual predator under s. 775.21, and who is arrested for  
81 committing a qualifying offense as defined in this section on or  
82 after the effective date of this act.

83 Section 2. This act shall take effect July 1, 2008.