

By Senator Bullard

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1                   A bill to be entitled  
2           An act relating to probation and community control;  
3           amending ss. 948.03, 948.11, 948.101, and 948.30,  
4           F.S.; requiring the Department of Corrections to  
5           electronically monitor a person who is sentenced to  
6           probation or to community control; providing an  
7           effective date.  
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9   Be It Enacted by the Legislature of the State of Florida:  
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11           Section 1. Subsection (1) of section 948.03, Florida  
12   Statutes, is amended to read:

13           948.03 Terms and conditions of probation.—

14           (1) The court shall determine the terms and conditions of  
15   probation. Conditions specified in this section do not require  
16   oral pronouncement at the time of sentencing and may be  
17   considered standard conditions of probation. These conditions  
18   shall include electronic monitoring and may include ~~among them~~  
19   the following, that the probationer or offender in community  
20   control shall:

21           (a) Report to the probation and parole supervisors as  
22   directed.

23           (b) Permit such supervisors to visit him or her at his or  
24   her home or elsewhere.

25           (c) Work faithfully at suitable employment insofar as may  
26   be possible.

27           (d) Remain within a specified place.

28           (e) Live without violating any law. A conviction in a court  
29   of law is not necessary for such a violation of law to

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30 constitute a violation of probation, community control, or any  
31 other form of court-ordered supervision.

32 (f) Make reparation or restitution to the aggrieved party  
33 for the damage or loss caused by his or her offense in an amount  
34 to be determined by the court. The court shall make such  
35 reparation or restitution a condition of probation, unless it  
36 determines that clear and compelling reasons exist to the  
37 contrary. If the court does not order restitution, or orders  
38 restitution of only a portion of the damages, as provided in s.  
39 775.089, it shall state on the record in detail the reasons  
40 therefor.

41 (g) ~~Effective July 1, 1994, and applicable for offenses~~  
42 ~~committed on or after that date,~~ Make payment of the debt due  
43 and owing to a county or municipal detention facility under s.  
44 951.032 for medical care, treatment, hospitalization, or  
45 transportation received by the felony probationer while in that  
46 detention facility. The court, in determining whether to order  
47 such repayment and the amount of the repayment, shall consider  
48 the amount of the debt, whether there was any fault of the  
49 institution for the medical expenses incurred, the financial  
50 resources of the felony probationer, the present and potential  
51 future financial needs and earning ability of the probationer,  
52 and dependents, and other appropriate factors.

53 (h) Support his or her legal dependents to the best of his  
54 or her ability.

55 (i) Make payment of the debt due and owing to the state  
56 under s. 960.17, subject to modification based on change of  
57 circumstances.

58 (j) Pay any application fee assessed under s. 27.52(1)(b)

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59 and attorney's fees and costs assessed under s. 938.29, subject  
60 to modification based on change of circumstances.

61 (k) Not associate with persons engaged in criminal  
62 activities.

63 (l)1. Submit to random testing as directed by the  
64 correctional probation officer or the professional staff of the  
65 treatment center where he or she is receiving treatment to  
66 determine the presence or use of alcohol or controlled  
67 substances.

68 2. If the offense was a controlled substance violation and  
69 the period of probation immediately follows a period of  
70 incarceration in the state correction system, the conditions  
71 shall include a requirement that the offender submit to random  
72 substance abuse testing intermittently throughout the term of  
73 supervision, upon the direction of the correctional probation  
74 officer as defined in s. 943.10(3).

75 (m) Be prohibited from possessing, carrying, or owning any:  
76 1. Firearm.

77 2. Weapon without first procuring the consent of the  
78 correctional probation officer.

79 (n) Be prohibited from using intoxicants to excess or  
80 possessing any drugs or narcotics unless prescribed by a  
81 physician. The probationer or community controllee shall not  
82 knowingly visit places where intoxicants, drugs, or other  
83 dangerous substances are unlawfully sold, dispensed, or used.

84 (o) Submit to the drawing of blood or other biological  
85 specimens as prescribed in ss. 943.325 and 948.014, and  
86 reimburse the appropriate agency for the costs of drawing and  
87 transmitting the blood or other biological specimens to the

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88 Department of Law Enforcement.

89 (p) Submit to the taking of a digitized photograph by the  
90 department as a part of the offender's records. This photograph  
91 may be displayed on the department's public website while the  
92 offender is under court-ordered supervision. However, the  
93 department may not display the photograph on the website if the  
94 offender is only on pretrial intervention supervision or if the  
95 offender's identity is exempt from disclosure due to an  
96 exemption from the requirements of s. 119.07.

97 Section 2. Subsections (1) and (2) of section 948.11,  
98 Florida Statutes, are amended to read:

99 948.11 Electronic monitoring devices.—

100 (1) The Department of Corrections shall ~~may, at its~~  
101 ~~discretion,~~ electronically monitor an offender sentenced to  
102 community control.

103 (2) Any offender placed on community control who violates  
104 the terms and conditions of community control and is restored to  
105 community control shall ~~may~~ be supervised by means of an  
106 electronic monitoring device or system.

107 Section 3. Subsection (1) of section 948.101, Florida  
108 Statutes, is amended to read:

109 948.101 Terms and conditions of community control.—

110 (1) The court shall determine the terms and conditions of  
111 community control. Conditions specified in this subsection do  
112 not require oral pronouncement at the time of sentencing and may  
113 be considered standard conditions of community control. The  
114 court shall require intensive supervision and surveillance for  
115 an offender placed into community control, which shall include  
116 electronic monitoring, and may include, but is not limited to:

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117 (a) Specified contact with the parole and probation  
118 officer.

119 (b) Confinement to an agreed-upon residence during hours  
120 away from employment and public service activities.

121 (c) Mandatory public service.

122 ~~(d) Supervision by the Department of Corrections by means~~  
123 ~~of an electronic monitoring device or system.~~

124 (d)(e) The standard conditions of probation set forth in s.  
125 948.03.

126 Section 4. Subsection (2) of section 948.30, Florida  
127 Statutes, is amended to read:

128 948.30 Additional terms and conditions of probation or  
129 community control for certain sex offenses.—Conditions imposed  
130 pursuant to this section do not require oral pronouncement at  
131 the time of sentencing and shall be considered standard  
132 conditions of probation or community control for offenders  
133 specified in this section.

134 (2) Effective for a probationer or community controllee  
135 whose crime was committed on or after October 1, 1997, and who  
136 is placed on community control or sex offender probation for a  
137 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
138 or s. 847.0145, in addition to any other provision of this  
139 section, the court must impose the following conditions of  
140 probation or community control:

141 (a) As part of a treatment program, participation at least  
142 annually in polygraph examinations to obtain information  
143 necessary for risk management and treatment and to reduce the  
144 sex offender's denial mechanisms. A polygraph examination must  
145 be conducted by a polygrapher who is a member of a national or

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146 state polygraph association and who is certified as a  
147 postconviction sex offender polygrapher, where available, and  
148 shall be paid for by the probationer or community controllee.  
149 The results of the polygraph examination shall be provided to  
150 the probationer's or community controllee's probation officer  
151 and qualified practitioner and shall not be used as evidence in  
152 court to prove that a violation of community supervision has  
153 occurred.

154 (b) Maintenance of a driving log and a prohibition against  
155 driving a motor vehicle alone without the prior approval of the  
156 supervising officer.

157 (c) A prohibition against obtaining or using a post office  
158 box without the prior approval of the supervising officer.

159 (d) If there was sexual contact, a submission to, at the  
160 probationer's or community controllee's expense, an HIV test  
161 with the results to be released to the victim or the victim's  
162 parent or guardian.

163 (e) Electronic monitoring ~~when deemed necessary by the~~  
164 ~~community control or probation officer and his or her~~  
165 ~~supervisor, and ordered by the court at the recommendation of~~  
166 ~~the Department of Corrections.~~

167 Section 5. This act shall take effect July 1, 2011.