

By Senator Benacquisto

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1 A bill to be entitled
2 An act relating to violations of probation or
3 community control; creating the "Officer Andrew Widman
4 Act"; amending s. 948.06, F.S.; authorizing a circuit
5 court judge, after making a certain finding, to issue
6 a warrant for the arrest of a probationer or offender
7 who has violated the terms of probation or community
8 control; requiring that the court inform the
9 probationer or offender of the violation, and may
10 order the person taken before the court that granted
11 the probation or community control; authorizing the
12 court to commit or release the probationer or offender
13 under certain circumstances; authorizing the court, in
14 determining whether to require or set the amount of
15 bail, to consider the likelihood that the person will
16 be imprisoned for the violation of probation or
17 community control; providing an effective date.

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

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21 Section 1. This act may be cited as the "Officer Andrew
22 Widman Act."

23 Section 2. Subsection (1) of section 948.06, Florida
24 Statutes, is amended to read:

25 948.06 Violation of probation or community control;
26 revocation; modification; continuance; failure to pay
27 restitution or cost of supervision.—

28 (1) (a) Whenever within the period of probation or community
29 control there are reasonable grounds to believe that a

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30 probationer or offender in community control has violated his or
31 her probation or community control in a material respect, any
32 law enforcement officer who is aware of the probationary or
33 community control status of the probationer or offender in
34 community control or any parole or probation supervisor may
35 arrest or request any county or municipal law enforcement
36 officer to arrest such probationer or offender without warrant
37 wherever found and return him or her to the court granting such
38 probation or community control.

39 (b) Any committing trial court judge may issue a warrant,
40 upon the facts being made known to him or her by affidavit of
41 one having knowledge of such facts, for the arrest of the
42 probationer or offender, returnable forthwith before the court
43 granting such probation or community control. In lieu of issuing
44 a warrant for arrest, the committing trial court judge may issue
45 a notice to appear if the probationer or offender in community
46 control has never been convicted of committing, and is not
47 currently alleged to have committed, a qualifying offense as
48 defined in this section.

49 (c) If a circuit court judge finds reasonable grounds to
50 believe that a probationer or an offender has violated his or
51 her probation or community control in a material respect by
52 committing a new violation of law, the judge may issue a warrant
53 for the arrest of the person.

54 (d)1. At a first appearance hearing for an offender who has
55 been arrested for violating his or her probation or community
56 control in a material respect by committing a new violation of
57 law the court:

58 a. Shall inform the person of the violation.

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59 b. May order the person to be taken before the court that
60 granted the probation or community control if the person admits
61 the violation.

62 2. If the probationer or offender does not admit the
63 violation at the first appearance hearing, the court:

64 a. May commit the probationer or offender or may release
65 the person with or without bail to await further hearing,
66 notwithstanding s. 907.041, relating to pretrial detention and
67 release; or

68 b. May order the probationer or offender to be brought
69 before the court that granted the probation or community control
70 if the court finds reasonable grounds that the person violated
71 his or her probation or community control in a material respect.

72 3. In determining whether to require or set the amount of
73 bail, and notwithstanding s. 907.041, relating to pretrial
74 detention and release, the court may consider whether the
75 probationer or offender is more likely than not to receive a
76 prison sanction for the violation.

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78 This paragraph does not apply to a probationer or offender on
79 community control who is subject to the hearing requirements
80 under subsection (4) or paragraph (8) (e).

81 (e) ~~(e)~~ Any parole or probation supervisor, any officer
82 authorized to serve criminal process, or any peace officer of
83 this state is authorized to serve and execute such warrant. Any
84 parole or probation supervisor is authorized to serve such
85 notice to appear.

86 (f) ~~(d)~~ Upon the filing of an affidavit alleging a violation
87 of probation or community control and following issuance of a

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88 warrant under s. 901.02, a warrantless arrest under this
89 section, or a notice to appear under this section, the
90 probationary period is tolled until the court enters a ruling on
91 the violation. Notwithstanding the tolling of probation, the
92 court shall retain jurisdiction over the offender for any
93 violation of the conditions of probation or community control
94 that is alleged to have occurred during the tolling period. The
95 probation officer is permitted to continue to supervise any
96 offender who remains available to the officer for supervision
97 until the supervision expires pursuant to the order of probation
98 or community control or until the court revokes or terminates
99 the probation or community control, whichever comes first.

100 (g)~~(e)~~ The chief judge of each judicial circuit may direct
101 the department to use a notification letter of a technical
102 violation in appropriate cases in lieu of a violation report,
103 affidavit, and warrant when the alleged violation is not a new
104 felony or misdemeanor offense. Such direction must be in writing
105 and must specify the types of specific violations which are to
106 be reported by a notification letter of a technical violation,
107 any exceptions to those violations, and the required process for
108 submission. At the direction of the chief judge, the department
109 shall send the notification letter of a technical violation to
110 the court.

111 (h)~~(f)~~ The court may allow the department to file an
112 affidavit, notification letter, violation report, or other
113 report under this section by facsimile or electronic submission.

114 Section 3. This act shall take effect October 1, 2011.