

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.
8

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, 2012.