

HB 195

2012

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:

10
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

29 | court of law is not necessary for such a violation of law to
 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)
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
76 | any:

77 | 1. Firearm.

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

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

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

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

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

100 948.11 Electronic monitoring devices.—

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

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

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

110 948.101 Terms and conditions of community control.—

111 (1) The court shall determine the terms and conditions of
 112 community control. Conditions specified in this subsection do

HB 195

2012

113 not require oral pronouncement at the time of sentencing and may
114 be considered standard conditions of community control. The
115 court shall require intensive supervision and surveillance for
116 an offender placed into community control, which shall include
117 electronic monitoring, and may include, but is not limited to:

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

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

122 (c) Mandatory public service.

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

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

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

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

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

141 probation or community control:

142 (a) As part of a treatment program, participation at least
143 annually in polygraph examinations to obtain information
144 necessary for risk management and treatment and to reduce the
145 sex offender's denial mechanisms. A polygraph examination must
146 be conducted by a polygrapher who is a member of a national or
147 state polygraph association and who is certified as a
148 postconviction sex offender polygrapher, where available, and
149 shall be paid for by the probationer or community controllee.
150 The results of the polygraph examination shall be provided to
151 the probationer's or community controllee's probation officer
152 and qualified practitioner and shall not be used as evidence in
153 court to prove that a violation of community supervision has
154 occurred.

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

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

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

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

168 Section 5. This act shall take effect July 1, 2012.