

By Senator Campbell

38-01623A-17

20171034__

1 A bill to be entitled
2 An act relating to criminal justice; repealing s.
3 843.085, F.S.; deleting a prohibition against wearing
4 or displaying certain badges or indicia of authority
5 of certain federal, state, county, or municipal
6 agencies without authorization; deleting a prohibition
7 against owning or operating a motor vehicle marked or
8 identified with certain indicia of a criminal justice
9 agency; deleting a prohibition against selling,
10 transferring, or giving away an authorized badge of a
11 criminal justice agency; deleting an exception;
12 deleting a penalty; repealing s. 918.19, F.S.;
13 deleting a requirement that the prosecuting attorney
14 open the closing arguments after the closing of
15 evidence in a criminal prosecution; deleting a
16 provision authorizing the accused or the accused's
17 attorney to reply; deleting a provision authorizing
18 the prosecuting attorney to reply in rebuttal;
19 deleting a provision requiring such criminal
20 procedures method to control under certain
21 circumstances; repealing s. 922.095, F.S.; deleting a
22 requirement that a person convicted and sentenced to
23 death pursue all possible collateral remedies in state
24 court in accordance with specified rules; repealing s.
25 922.108, F.S.; deleting prohibitions against
26 specifying a particular method of execution in a
27 sentence of death and against reversing any sentence
28 over the wording or form of the sentencing order;
29 repealing s. 924.051, F.S.; deleting definitions of

38-01623A-17

20171034__

30 terms; deleting requirements that the terms and
31 conditions of direct appeals and collateral review in
32 criminal cases be strictly enforced; amending s.
33 925.12, F.S.; deleting provisions specifying that the
34 Legislature intends that the Supreme Court adopt
35 certain rules of procedure; amending s. 948.01, F.S.;
36 deleting a requirement that the Department of
37 Corrections, in consultation with the Office of the
38 State Courts Administrator, develop and disseminate
39 uniform order of supervision forms annually for the
40 courts to use for persons placed on community
41 supervision; amending s. 948.06, F.S.; deleting a
42 provision authorizing a court to impose a sanction
43 with a term of a certain duration upon the revocation
44 or modification of probation or community control;
45 amending s. 948.09, F.S.; deleting provisions
46 authorizing the department, at its discretion, to
47 require offenders under any form of supervision to
48 submit to and pay for urinalysis testing; deleting a
49 provision that makes a failure to make such payment
50 grounds for revocation of supervision or removal from
51 a pretrial intervention program; deleting an exemption
52 to the payment requirement; deleting a requirement
53 that the department establish a payment plan for all
54 costs ordered by a court for collection by the
55 department and a priority order for victim restitution
56 payments over all other court-ordered payments;
57 deleting a provision authorizing the department not to
58 disburse cumulative amounts of less than a specified

38-01623A-17

20171034__

59 value to certain payees; amending s. 985.534, F.S.;

60 conforming a provision to changes made by the act;

61 providing an effective date.

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

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65 Section 1. Section 843.085, Florida Statutes, is repealed.

66 Section 2. Section 918.19, Florida Statutes, is repealed.

67 Section 3. Section 922.095, Florida Statutes, is repealed.

68 Section 4. Section 922.108, Florida Statutes, is repealed.

69 Section 5. Section 924.051, Florida Statutes, is repealed.

70 Section 6. Subsections (3) and (4) of section 925.12,

71 Florida Statutes, are amended to read:

72 925.12 DNA testing; defendants entering pleas.—

73 ~~(3) It is the intent of the Legislature that the Supreme~~

74 ~~Court adopt rules of procedure consistent with this section for~~

75 ~~a court, prior to the acceptance of a plea, to make an inquiry~~

76 ~~into the following matters:~~

77 ~~(a) Whether counsel for the defense has reviewed the~~

78 ~~discovery disclosed by the state and whether such discovery~~

79 ~~included a listing or description of physical items of evidence.~~

80 ~~(b) Whether the nature of the evidence against the~~

81 ~~defendant disclosed through discovery has been reviewed with the~~

82 ~~defendant.~~

83 ~~(c) Whether the defendant or counsel for the defendant is~~

84 ~~aware of any physical evidence disclosed by the state for which~~

85 ~~DNA testing may exonerate the defendant.~~

86 ~~(d) Whether the state is aware of any physical evidence for~~

87 ~~which DNA testing may exonerate the defendant.~~

38-01623A-17

20171034__

88 ~~(4) It is the intent of the Legislature that the~~
89 ~~postponement of the proceedings by the court on the defendant's~~
90 ~~behalf under subsection (2) constitute an extension attributable~~
91 ~~to the defendant for purposes of the defendant's right to a~~
92 ~~speedy trial.~~

93 Section 7. Subsection (1) of section 948.01, Florida
94 Statutes, is amended to read:

95 948.01 When court may place defendant on probation or into
96 community control.-

97 (1) Any state court having original jurisdiction of
98 criminal actions may at a time to be determined by the court,
99 with or without an adjudication of the guilt of the defendant,
100 hear and determine the question of the probation of a defendant
101 in a criminal case, except for an offense punishable by death,
102 who has been found guilty by the verdict of a jury, has entered
103 a plea of guilty or a plea of nolo contendere, or has been found
104 guilty by the court trying the case without a jury.

105 ~~(a)~~ If the court places the defendant on probation or into
106 community control for a felony, the department shall provide
107 immediate supervision by an officer employed in compliance with
108 the minimum qualifications for officers as provided in s.
109 943.13. A private entity may not provide probationary or
110 supervision services to felony or misdemeanor offenders
111 sentenced or placed on probation or other supervision by the
112 circuit court.

113 ~~(b) The department, in consultation with the Office of the~~
114 ~~State Courts Administrator, shall develop and disseminate to the~~
115 ~~courts uniform order of supervision forms by July 1 of each year~~
116 ~~or as necessary. The courts shall use the uniform order of~~

38-01623A-17

20171034__

117 ~~supervision forms provided by the department for all persons~~
118 ~~placed on community supervision.~~

119 Section 8. Paragraph (f) of subsection (2) of section
120 948.06, Florida Statutes, is amended to read:

121 948.06 Violation of probation or community control;
122 revocation; modification; continuance; failure to pay
123 restitution or cost of supervision.-

124 (2)

125 ~~(f) Notwithstanding s. 775.082, when a period of probation~~
126 ~~or community control has been tolled, upon revocation or~~
127 ~~modification of the probation or community control, the court~~
128 ~~may impose a sanction with a term that when combined with the~~
129 ~~amount of supervision served and tolled, exceeds the term~~
130 ~~permissible pursuant to s. 775.082 for a term up to the amount~~
131 ~~of the tolled period of supervision.~~

132 Section 9. Subsections (6) and (7) of section 948.09,
133 Florida Statutes, are amended to read:

134 948.09 Payment for cost of supervision and rehabilitation.-

135 ~~(6) In addition to any other required contributions, the~~
136 ~~department, at its discretion, may require offenders under any~~
137 ~~form of supervision to submit to and pay for urinalysis testing~~
138 ~~to identify drug usage as part of the rehabilitation program.~~
139 ~~Any failure to make such payment, or participate, may be~~
140 ~~considered a ground for revocation by the court, the Florida~~
141 ~~Commission on Offender Review, or the Control Release Authority,~~
142 ~~or for removal from the pretrial intervention program by the~~
143 ~~state attorney. The department may exempt a person from such~~
144 ~~payment if it determines that any of the factors specified in~~
145 ~~subsection (3) exist.~~

38-01623A-17

20171034__

146 ~~(7) The department shall establish a payment plan for all~~
147 ~~costs ordered by the courts for collection by the department and~~
148 ~~a priority order for payments, except that victim restitution~~
149 ~~payments authorized under s. 948.03(1)(f) take precedence over~~
150 ~~all other court ordered payments. The department is not required~~
151 ~~to disburse cumulative amounts of less than \$10 to individual~~
152 ~~payees established on this payment plan.~~

153 Section 10. Subsection (1) of section 985.534, Florida
154 Statutes, is amended to read:

155 985.534 Appeal.—

156 (1) An appeal from an order of the court affecting a party
157 to a case involving a child under this chapter may be taken to
158 the appropriate district court of appeal within the time and in
159 the manner prescribed by ~~s. 924.051~~ and the Florida Rules of
160 Appellate Procedure by:

161 (a) Any child, and any parent or legal guardian or
162 custodian of any child.

163 (b) The state, which may appeal from:

- 164 1. An order dismissing a petition or any section thereof;
- 165 2. An order granting a new adjudicatory hearing;
- 166 3. An order arresting judgment;
- 167 4. A ruling on a question of law when the child is
168 adjudicated delinquent and appeals from the judgment;
- 169 5. The disposition, on the ground that it is illegal;
- 170 6. A judgment discharging a child on habeas corpus;
- 171 7. An order adjudicating a child insane under the Florida
172 Rules of Juvenile Procedure; and
- 173 8. All other preadjudicatory hearings, except that the
174 state may not take more than one appeal under this subsection in

38-01623A-17

20171034__

175 any case.

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177 In the case of an appeal by the state, the notice of appeal
178 shall be filed by the appropriate state attorney or his or her
179 authorized assistant under s. 27.18. Such an appeal shall embody
180 all assignments of error in each preadjudicatory hearing order
181 that the state seeks to have reviewed. The state shall pay all
182 costs of the appeal except for the child's attorney's fee.

183 Section 11. This act shall take effect upon becoming a law.