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HB 7091

2017 Legislature

1
2 An act relating to probation and community control;
3 amending s. 948.001, F.S.; redefining terms and
4 deleting a definition; amending s. 948.01, F.S.;
5 requiring the Department of Corrections to revise and
6 make available to the courts, rather than develop and
7 disseminate to the courts, uniform order of
8 supervision forms; amending s. 948.012, F.S.; adding
9 the addiction-recovery supervision program as an
10 exception to the immediate commencement of the period
11 of probation upon the release of the defendant;
12 amending s. 948.013, F.S.; revising the list of
13 offenses that make an offender ineligible for
14 placement on administrative probation during specified
15 time periods; amending s. 948.03, F.S.; authorizing
16 the court to require a probationer or offender to
17 report to, to permit visits by, to submit to random
18 testing as directed by, probation officers, rather
19 than probation and parole supervisors or correctional
20 probation officers; removing the option of
21 incarceration in specified locations if a court
22 withholds adjudication of guilt or imposes
23 incarceration as a condition of probation; amending s.
24 948.031, F.S.; replacing the term "public service"
25 with the term "community service"; amending s.

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26 | 948.035, F.S.; removing a probation program drug
27 | punishment treatment community facility from the list
28 | of residential treatment or incarceration facilities
29 | that an offender must be restricted to under certain
30 | circumstances; requiring a qualified practitioner to
31 | provide, rather than a court to obtain, an assessment
32 | and recommendation on the treatment needs of an
33 | offender entering a treatment facility; amending s.
34 | 948.037, F.S.; authorizing, rather than requiring, a
35 | court to require an offender to make a good faith
36 | effort toward completion of certain skills or a
37 | specific diploma as a condition of community control,
38 | probation, or probation following incarceration;
39 | amending s. 948.06, F.S.; replacing the term "parole
40 | or probation supervisor" with the term "probation
41 | officer"; specifying that the probationary period is
42 | tolled after the issuance of a violation of probation
43 | or community control warrant, rather than an arrest
44 | warrant; authorizing a chief judge to direct the
45 | department to use a notice to appear for technical
46 | violations; amending s. 948.09, F.S.; expanding the
47 | types of supervision under which an offender must pay
48 | for the cost of supervision; conforming provisions to
49 | changes made by the act; revising the factors under
50 | which the department may exempt an offender from

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51 | payments; requiring the certification of student
52 | status to be supplied to the offender's probation
53 | officer, rather than to the Secretary of Corrections;
54 | deleting duties of the secretary; deleting provisions
55 | authorizing the department to provide monthly payments
56 | to court-approved entities that provide supervision or
57 | rehabilitation for offenders under certain
58 | circumstances; deleting provisions relating to
59 | contract terms with, and a monthly report from,
60 | certain entities; amending s. 948.10, F.S.; requiring
61 | a community control program to focus on the provision
62 | of home confinement with limitations, rather than
63 | sanctions and consequences, commensurate with the
64 | crime committed; specifying and revising who the
65 | target population is for the community control
66 | program; revising departmental requirements for the
67 | operation of the program and caseloads; making
68 | technical changes; specifying the types of facilities
69 | used for the community control program; deleting an
70 | annual reporting requirement of the department to the
71 | Governor and the Legislature which includes certain
72 | information; amending s. 948.101, F.S.; conforming
73 | provisions to changes made by the act; amending s.
74 | 948.11, F.S.; requiring, rather than authorizing, the
75 | department to electronically monitor offenders

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76 sentenced to community control under certain
 77 circumstances; conforming terminology to changes made
 78 by the act; amending s. 948.15, F.S.; revising the
 79 required terms of the contract for a private entity
 80 providing services for the supervision of misdemeanor
 81 probationers; repealing s. 948.50, F.S., relating to a
 82 short title; reenacting s. 921.187(1)(n), F.S.,
 83 relating to disposition and sentencing, alternatives,
 84 and restitution, to incorporate the amendment made to
 85 s. 948.013, F.S., in a reference thereto; reenacting
 86 s. 947.1405(7)(b), F.S., relating to the conditional
 87 release program, to incorporate the amendment made to
 88 s. 948.09, F.S., in a reference thereto; reenacting
 89 ss. 947.1747 and 948.01(3), F.S., relating to
 90 community control as a special condition of parole and
 91 when a court may place a defendant on probation or
 92 into community control, respectively, to incorporate
 93 the amendment made to s. 948.10, F.S., in references
 94 thereto; providing effective dates.

95
 96 Be It Enacted by the Legislature of the State of Florida:

97
 98 Section 1. Subsection (1) and present subsections (4) and
 99 (9) of section 948.001, Florida Statutes, are amended, and
 100 present subsections (5) through (14) of that section are

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101 redesignated as subsections (4) through (13), respectively, to
 102 read:

103 948.001 Definitions.—As used in this chapter, the term:

104 (1) "Administrative probation" means a form of no contact,
 105 nonreporting ~~noncontact~~ supervision in which an offender who
 106 presents a low risk of harm to the community may, upon
 107 satisfactory completion of half the term of probation, be
 108 transferred by the Department of Corrections to this type of
 109 reduced level of supervision, as provided in s. 948.013

110 ~~nonreporting status until expiration of the term of supervision.~~

111 ~~(4) "Community residential drug punishment center" means a~~
 112 ~~residential drug punishment center designated by the Department~~
 113 ~~of Corrections. The Department of Corrections shall adopt rules~~
 114 ~~as necessary to define and operate such a center.~~

115 (8) ~~(9)~~ "Probation" means a form of community supervision
 116 requiring specified contacts with ~~parole and~~ probation officers
 117 and other terms and conditions as provided in s. 948.03.

118 Section 2. Paragraph (b) of subsection (1) of section
 119 948.01, Florida Statutes, is amended to read:

120 948.01 When court may place defendant on probation or into
 121 community control.—

122 (1) Any state court having original jurisdiction of
 123 criminal actions may at a time to be determined by the court,
 124 with or without an adjudication of the guilt of the defendant,
 125 hear and determine the question of the probation of a defendant

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126 | in a criminal case, except for an offense punishable by death,
 127 | who has been found guilty by the verdict of a jury, has entered
 128 | a plea of guilty or a plea of nolo contendere, or has been found
 129 | guilty by the court trying the case without a jury.

130 | (b) The department, in consultation with the Office of the
 131 | State Courts Administrator, shall revise and make available
 132 | ~~develop and disseminate~~ to the courts uniform order of
 133 | supervision forms by July 1 of each year or as necessary. The
 134 | courts shall use the uniform order of supervision forms provided
 135 | by the department for all persons placed on community
 136 | supervision.

137 | Section 3. Subsection (1) of section 948.012, Florida
 138 | Statutes, is amended, and subsections (4), (5), and (6) of that
 139 | section are republished, to read:

140 | 948.012 Split sentence of probation or community control
 141 | and imprisonment.—

142 | (1) If punishment by imprisonment for a misdemeanor or a
 143 | felony, except for a capital felony, is prescribed, the court
 144 | may, at the time of sentencing, impose a split sentence whereby
 145 | the defendant is to be placed on probation or, with respect to
 146 | any such felony, into community control upon completion of any
 147 | specified period of such sentence which may include a term of
 148 | years or less. In such case, the court shall stay and withhold
 149 | the imposition of the remainder of sentence imposed upon the
 150 | defendant and direct that the defendant be placed upon probation

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151 or into community control after serving such period as may be
152 imposed by the court. Except as provided in s. 944.4731(2)(b)
153 and subsection (6), the period of probation or community control
154 shall commence immediately upon the release of the defendant
155 from incarceration, whether by parole or gain-time allowances.

156 (4) Effective for offenses committed on or after September
157 1, 2005, the court must impose a split sentence pursuant to
158 subsection (1) for any person who is convicted of a life felony
159 for lewd and lascivious molestation pursuant to s. 800.04(5)(b)
160 if the court imposes a term of years in accordance with s.
161 775.082(3)(a)4.a.(II) rather than life imprisonment. The
162 probation or community control portion of the split sentence
163 imposed by the court for a defendant must extend for the
164 duration of the defendant's natural life and include a condition
165 that he or she be electronically monitored.

166 (5)(a) Effective for offenses committed on or after
167 October 1, 2014, if the court imposes a term of years in
168 accordance with s. 775.082 which is less than the maximum
169 sentence for the offense, the court must impose a split sentence
170 pursuant to subsection (1) for any person who is convicted of a
171 violation of:

- 172 1. Section 782.04(1)(a)2.c.;
- 173 2. Section 787.01(3)(a)2. or 3.;
- 174 3. Section 787.02(3)(a)2. or 3.;
- 175 4. Section 794.011, excluding s. 794.011(10);

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- 176 5. Section 800.04;
 177 6. Section 825.1025; or
 178 7. Section 847.0135(5).

179 (b) The probation or community control portion of the
 180 split sentence imposed by the court must extend for at least 2
 181 years. However, if the term of years imposed by the court
 182 extends to within 2 years of the maximum sentence for the
 183 offense, the probation or community control portion of the split
 184 sentence must extend for the remainder of the maximum sentence.

185 (6) If a defendant who has been sentenced to a split
 186 sentence pursuant to subsection (1) is transferred to the
 187 custody of the Department of Children and Families pursuant to
 188 part V of chapter 394, the period of probation or community
 189 control is tolled until such person is no longer in the custody
 190 of the Department of Children and Families. This subsection
 191 applies to all sentences of probation or community control which
 192 begin on or after October 1, 2014, regardless of the date of the
 193 underlying offense.

194 Section 4. Effective October 1, 2017, subsection (2) of
 195 section 948.013, Florida Statutes, is amended to read:

196 948.013 Administrative probation.—

197 (2) (a) Effective for an offense committed on or after July
 198 1, 1998, and before October 1, 2017, a person is ineligible for
 199 placement on administrative probation if the person is sentenced
 200 to or is serving a term of probation or community control,

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201 regardless of the conviction or adjudication, for committing, or
 202 attempting, conspiring, or soliciting to commit, any of the
 203 felony offenses described in s. 787.01 or s. 787.02, where the
 204 victim is a minor and the defendant is not the victim's parent;
 205 s. 787.025; s. 787.06(3)(g); chapter 794; former s. 796.03; s.
 206 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135;
 207 or s. 847.0145.

208 (b) Effective for an offense committed on or after October
 209 1, 2017, a person is ineligible for placement on administrative
 210 probation if the person is sentenced to or is serving a term of
 211 probation or community control, regardless of the conviction or
 212 adjudication, for committing, or attempting, conspiring, or
 213 soliciting to commit, any of the felony offenses described in s.
 214 775.21(4)(a)1.a. or (4)(a)1.b. or s. 943.0435(1)(h)1.a.

215 Section 5. Paragraphs (a), (b), (l), and (m) of subsection
 216 (1) and subsection (2) of section 948.03, Florida Statutes, are
 217 amended to read:

218 948.03 Terms and conditions of probation.-

219 (1) The court shall determine the terms and conditions of
 220 probation. Conditions specified in this section do not require
 221 oral pronouncement at the time of sentencing and may be
 222 considered standard conditions of probation. These conditions
 223 may include among them the following, that the probationer or
 224 offender in community control shall:

225 (a) Report to the probation officer ~~and parole supervisors~~

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226 | as directed.

227 | (b) Permit the probation officer ~~such supervisors~~ to visit
228 | him or her at his or her home or elsewhere.

229 | (1)1. Submit to random testing as directed by the
230 | ~~correctional~~ probation officer or the professional staff of the
231 | treatment center where he or she is receiving treatment to
232 | determine the presence or use of alcohol or controlled
233 | substances.

234 | 2. If the offense was a controlled substance violation and
235 | the period of probation immediately follows a period of
236 | incarceration in the state correction system, the conditions
237 | must ~~shall~~ include a requirement that the offender submit to
238 | random substance abuse testing intermittently throughout the
239 | term of supervision, upon the direction of the ~~correctional~~
240 | probation officer ~~as defined in s. 943.10(3)~~.

241 | (m) Be prohibited from possessing, carrying, or owning
242 | any:

243 | 1. Firearm.

244 | 2. Weapon without first procuring the consent of the
245 | ~~correctional~~ probation officer.

246 | (2) The enumeration of specific kinds of terms and
247 | conditions does ~~shall~~ not prevent the court from adding thereto
248 | such other or others as it considers proper. However, the
249 | sentencing court may only impose a condition of supervision
250 | allowing an offender convicted of s. 794.011, s. 800.04, s.

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251 827.071, s. 847.0135(5), or s. 847.0145~~7~~ to reside in another
 252 state~~7~~ if the order stipulates that it is contingent upon the
 253 approval of the receiving state interstate compact authority.
 254 The court may rescind or modify at any time the terms and
 255 conditions theretofore imposed by it upon the probationer.
 256 However, if the court withholds adjudication of guilt or imposes
 257 a period of incarceration as a condition of probation, the
 258 period may ~~shall~~ not exceed 364 days, and incarceration shall be
 259 restricted to either a county facility, or a probation and
 260 restitution center under the jurisdiction of the Department of
 261 Corrections, ~~a probation program drug punishment phase I secure~~
 262 ~~residential treatment institution, or a community residential~~
 263 ~~facility owned or operated by any entity providing such~~
 264 ~~services.~~

265 Section 6. Section 948.031, Florida Statutes, is amended
 266 to read:

267 948.031 Condition of probation or community control;
 268 community public service.-

269 (1) Any person who is convicted of a felony or misdemeanor
 270 and who is placed on probation or into community control may be
 271 required as a condition of supervision to perform some type of
 272 community public service for a tax-supported or tax-exempt
 273 entity, with the consent of such entity. Such community public
 274 service shall be performed at a time other than during such
 275 person's regular hours of employment.

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276 (2) Upon the request of the chief judge of the circuit,
 277 the Department of Corrections shall establish a community ~~public~~
 278 service program for a county, which program may include, but is
 279 ~~shall not be~~ limited to, any of the following types of community
 280 ~~public~~ service:

281 (a) Maintenance work on any property or building owned or
 282 leased by any state, county, or municipality or any nonprofit
 283 organization or agency.

284 (b) Maintenance work on any state-owned, county-owned, or
 285 municipally owned road or highway.

286 (c) Landscaping or maintenance work in any state, county,
 287 or municipal park or recreation area.

288 (d) Work in any state, county, or municipal hospital or
 289 any developmental services institution or other nonprofit
 290 organization or agency.

291 Section 7. Subsections (1) and (3) of section 948.035,
 292 Florida Statutes, are amended to read:

293 948.035 Residential treatment as a condition of probation
 294 or community control.—

295 (1) If the court imposes a period of residential treatment
 296 or incarceration as a condition of probation or community
 297 control, the residential treatment or incarceration shall be
 298 restricted to the following facilities:

299 (a) A Department of Corrections probation and restitution
 300 center;

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301 ~~(b) A probation program drug punishment treatment~~
 302 ~~community;~~
 303 (b)-(e) A community residential facility that ~~which~~ is
 304 owned and operated by a ~~any~~ public or private entity, excluding
 305 a community correctional center as defined in s. 944.026; or
 306 (c)-(d) A county-owned facility.
 307 (3) Before ~~Prior to~~ admission to such a facility or center
 308 ~~treatment community, a qualified practitioner must provide the~~
 309 ~~court shall obtain~~ an individual assessment and recommendation
 310 on the appropriate treatment needs ~~pursuant to the Community~~
 311 ~~Control Implementation Manual which shall be considered by the~~
 312 ~~court in ordering such placements.~~ Placement in such a facility
 313 or center may, ~~or in the phase I secure residential phase of a~~
 314 ~~probation program drug punishment treatment community,~~ shall not
 315 exceed 364 days. Early completion of an offender's placement
 316 shall be recommended to the court, when appropriate, by the
 317 facility or center supervisor, by the supervising probation
 318 officer, or by the program manager. The Department of
 319 Corrections is authorized to contract with appropriate agencies
 320 for provision of services.
 321 Section 8. Subsection (1) of section 948.037, Florida
 322 Statutes, is amended to read:
 323 948.037 Education and learning as a condition of probation
 324 or community control.—
 325 (1) As a condition of community control, probation, or

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326 | probation following incarceration, the court may ~~shall~~ require
 327 | an offender who has not obtained a high school diploma or high
 328 | school equivalency diploma or who lacks basic or functional
 329 | literacy skills, upon acceptance by an adult education program,
 330 | to make a good faith effort toward completion of such basic or
 331 | functional literacy skills or high school equivalency diploma,
 332 | as defined in s. 1003.435, in accordance with the assessed adult
 333 | general education needs of the individual offender. The court
 334 | may ~~shall~~ not revoke community control, probation, or probation
 335 | following incarceration because of the offender's inability to
 336 | achieve such skills or diploma but may revoke community control,
 337 | probation, or probation following incarceration if the offender
 338 | fails to make a good faith effort to achieve such skills or
 339 | diploma. The court may grant early termination of community
 340 | control, probation, or probation following incarceration upon
 341 | the offender's successful completion of the approved program. As
 342 | used in this subsection, "good faith effort" means the offender
 343 | is enrolled in a program of instruction and is attending and
 344 | making satisfactory progress toward completion of the
 345 | requirements.

346 | Section 9. Paragraphs (a), (e), (f), and (g) of subsection
 347 | (1) of section 948.06, Florida Statutes, are amended to read:

348 | 948.06 Violation of probation or community control;
 349 | revocation; modification; continuance; failure to pay
 350 | restitution or cost of supervision.—

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351 (1) (a) Whenever within the period of probation or
352 community control there are reasonable grounds to believe that a
353 probationer or offender in community control has violated his or
354 her probation or community control in a material respect, any
355 law enforcement officer who is aware of the probationary or
356 community control status of the probationer or offender in
357 community control or any ~~parole or~~ probation officer ~~supervisor~~
358 may arrest or request any county or municipal law enforcement
359 officer to arrest such probationer or offender without warrant
360 wherever found and return him or her to the court granting such
361 probation or community control.

362 (e) Any ~~parole or~~ probation officer ~~supervisor~~, any
363 officer authorized to serve criminal process, or any peace
364 officer of this state is authorized to serve and execute such
365 warrant. Any ~~parole or~~ probation officer ~~supervisor~~ is
366 authorized to serve such notice to appear.

367 (f) Upon the filing of an affidavit alleging a violation
368 of probation or community control and following issuance of a
369 warrant for such violation ~~under s. 901.02~~, a warrantless arrest
370 under this section, or a notice to appear under this section,
371 the probationary period is tolled until the court enters a
372 ruling on the violation. Notwithstanding the tolling of
373 probation, the court shall retain jurisdiction over the offender
374 for any violation of the conditions of probation or community
375 control that is alleged to have occurred during the tolling

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376 | period. The probation officer is permitted to continue to
 377 | supervise any offender who remains available to the officer for
 378 | supervision until the supervision expires pursuant to the order
 379 | of probation or community control or until the court revokes or
 380 | terminates the probation or community control, whichever comes
 381 | first.

382 | (g) The chief judge of each judicial circuit may direct
 383 | the department to use a notification letter of a technical
 384 | violation in appropriate cases in lieu of a violation report,
 385 | affidavit, and warrant or a notice to appear when the alleged
 386 | violation is not a new felony or misdemeanor offense. Such
 387 | direction must be in writing and must specify the types of
 388 | specific technical violations which are to be reported by a
 389 | notification letter of a technical violation, any exceptions to
 390 | those violations, and the required process for submission. At
 391 | the direction of the chief judge, the department shall send the
 392 | notification letter of a technical violation to the court.

393 | Section 10. Section 948.09, Florida Statutes, is amended
 394 | to read:

395 | 948.09 Payment for cost of supervision and other monetary
 396 | obligations ~~rehabilitation.~~

397 | (1) (a)1. Any person ordered by the court, the Department
 398 | of Corrections, or the Florida Commission on Offender Review to
 399 | be placed under ~~on probation, drug offender probation, community~~
 400 | ~~control, parole, control release, provisional release~~

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401 ~~supervision, addiction-recovery supervision, or conditional~~
402 ~~release~~ supervision under this chapter, chapter 944, chapter
403 945, chapter 947, or chapter 958, or in a pretrial intervention
404 program, must, as a condition of any placement, pay the
405 department a total sum of money equal to the total month or
406 portion of a month of supervision times the court-ordered
407 amount, but not to exceed the actual per diem cost of the
408 supervision. The department shall adopt rules by which an
409 offender who pays in full and in advance of regular termination
410 of supervision may receive a reduction in the amount due. The
411 rules shall incorporate provisions by which the offender's
412 ability to pay is linked to an established written payment plan.
413 Funds collected from felony offenders may be used to offset
414 costs of the Department of Corrections associated with community
415 supervision programs, subject to appropriation by the
416 Legislature.

417 2. In addition to any other contribution or surcharge
418 imposed by this section, each felony offender assessed under
419 this paragraph shall pay a \$2-per-month surcharge to the
420 department. The surcharge shall be deemed to be paid only after
421 the full amount of any monthly payment required by the
422 established written payment plan has been collected by the
423 department. These funds shall be used by the department to pay
424 for correctional probation officers' training and equipment,
425 including radios, and firearms training, firearms, and attendant

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426 equipment necessary to train and equip officers who choose to
 427 carry a concealed firearm while on duty. This subparagraph does
 428 not limit the department's authority to determine who shall be
 429 authorized to carry a concealed firearm while on duty, or limit
 430 the right of a correctional probation officer to carry a
 431 personal firearm approved by the department.

432 (b) Any person placed on misdemeanor probation by a county
 433 court must contribute not less than \$40 per month, as decided by
 434 the sentencing court, to the court-approved public or private
 435 entity providing misdemeanor supervision.

436 (2) Any person being electronically monitored by the
 437 department as a result of being placed on supervision shall pay
 438 the department for electronic monitoring services at a rate that
 439 may not exceed the full cost of the monitoring service in
 440 addition to the cost of supervision as directed by the
 441 sentencing court. The funds collected under this subsection
 442 shall be deposited in the General Revenue Fund. The department
 443 may exempt a person from paying all or any part of the costs of
 444 the electronic monitoring service if it finds that any of the
 445 factors listed in subsection (3) exist.

446 (3) Any failure to pay contribution as required under this
 447 section may constitute a ground for the revocation of
 448 supervision ~~probation~~ by the court or, ~~the revocation of parole~~
 449 ~~or conditional release~~ by the Florida Commission on Offender
 450 Review, the revocation of control release by the Control Release

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451 Authority, or the removal from the pretrial intervention program
 452 by the state attorney. The Department of Corrections may exempt
 453 a person from the payment of all or any part of the contribution
 454 if it finds any of the following factors ~~to exist~~:

455 (a) The offender has diligently attempted, but has been
 456 unable, to obtain or maintain employment that ~~which~~ provides him
 457 or her sufficient income to make such payments.

458 (b) The offender is a student in a school, college,
 459 university, or course of career training designed to fit the
 460 student for gainful employment. Certification of such student
 461 status shall be supplied to the offender's probation officer
 462 ~~Secretary of Corrections~~ by the educational institution in which
 463 the offender is enrolled.

464 (c) The offender has an employment handicap, as determined
 465 by a physical, psychological, or psychiatric examination
 466 ~~acceptable to, or ordered by, the secretary.~~

467 (d) The offender's age prevents him or her from obtaining
 468 employment.

469 (e) The offender is responsible for the support of
 470 dependents, and the payment of such contribution constitutes an
 471 undue hardship on the offender.

472 (f) The offender has been transferred outside the state
 473 under an interstate compact adopted pursuant to chapter 949.

474 ~~(g) There are other extenuating circumstances, as~~
 475 ~~determined by the secretary.~~

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476 ~~(4) In addition to the contribution required under~~
477 ~~subsection (1), the department may provide a maximum payment of~~
478 ~~\$10 per month for each misdemeanor probationer who is~~
479 ~~contributing \$10 per month to the court-approved public or~~
480 ~~private entity which is providing him or her with misdemeanor~~
481 ~~supervision or rehabilitation. The \$10 payment set forth herein~~
482 ~~shall only be for first degree misdemeanors, petty theft, and~~
483 ~~worthless checks. The department shall make such payment to the~~
484 ~~court-approved public or private entity which is providing~~
485 ~~supervision to the offender under this section. Such payment~~
486 ~~shall be implemented through a contract to be entered into by~~
487 ~~the Secretary of Corrections and the entity. Terms of the~~
488 ~~contract shall state, but are not limited to, the extent of the~~
489 ~~services to be rendered by the entity providing supervision or~~
490 ~~rehabilitation. In addition, the entity shall supply the~~
491 ~~department with a monthly report documenting the acceptance of~~
492 ~~each offender placed under its supervision by the court,~~
493 ~~documenting the payment of the required contribution by each~~
494 ~~offender under supervision or rehabilitation, and notifying the~~
495 ~~department of all offenders for whom supervision or~~
496 ~~rehabilitation will be terminated. Supervisory records of the~~
497 ~~entity shall be open to inspection upon the request of the~~
498 ~~department or its agents.~~

499 (4)-(5) As a condition of an interstate compact adopted
500 pursuant to chapter 949, the department shall require each out-

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501 of-state probationer or parolee transferred to this state to
502 contribute not less than \$30 or more than the cost of
503 supervision, certified by the Department of Corrections, per
504 month to defray the cost incurred by this state as a result of
505 providing supervision and rehabilitation during the period of
506 supervision.

507 (5)~~(6)~~ In addition to any other required contributions,
508 the department, at its discretion, may require offenders under
509 any form of supervision to submit to and pay for urinalysis
510 testing to identify drug usage as part of the rehabilitation
511 program. Any failure to make such payment, or participate, may
512 be considered a ground for revocation by the court, the Florida
513 Commission on Offender Review, or the Control Release Authority,
514 or for removal from the pretrial intervention program by the
515 state attorney. The department may exempt a person from such
516 payment if it determines that any of the factors specified in
517 subsection (3) exist.

518 (6)~~(7)~~ The department shall establish a payment plan for
519 all costs ordered by the courts for collection by the department
520 and a priority order for payments, except that victim
521 restitution payments authorized under s. 948.03(1)(f) take
522 precedence over all other court-ordered payments. The department
523 is not required to disburse cumulative amounts of less than \$10
524 to individual payees established on this payment plan.

525 Section 11. Section 948.10, Florida Statutes, is amended

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526 to read:

527 948.10 Community control programs; home confinement.—

528 (1) The Department of Corrections shall develop and
 529 administer a community control program. This ~~complementary~~
 530 program shall be rigidly structured and designed to accommodate
 531 offenders who, in the absence of such a program, would have been
 532 incarcerated in a jail or prison. The program shall focus on the
 533 provision of home confinement subject to an authorized level of
 534 limited freedom and special conditions ~~sanctions and~~
 535 ~~consequences which~~ that are commensurate with the seriousness of
 536 the crime. The program shall offer the courts and the Florida
 537 Commission on Offender Review an alternative, community-based
 538 method to punish an offender in lieu of incarceration and shall
 539 provide intensive supervision to closely monitor compliance with
 540 restrictions and special conditions, including, but not limited
 541 to, treatment or rehabilitative programs. The targeted
 542 population for this community control program includes ~~if the~~
 543 ~~offender is a member of one of the following target groups:~~

544 (a) Probation violators charged with technical violations
 545 or new ~~misdemeanor~~ violations of law.

546 (b) Parole or conditional release violators charged with
 547 technical violations or new ~~misdemeanor~~ violations of law.

548 (c) Individuals found guilty of felonies, who, due to
 549 their criminal backgrounds or the seriousness of the offenses,
 550 would not be placed on regular probation.

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551 (2) ~~The department shall commit not less than 10 percent~~
552 ~~of the parole and probation field staff and supporting resources~~
553 ~~to the operation of the community control program.~~ Caseloads
554 should be restricted to a maximum of 30 ~~25~~ cases per officer in
555 order to ensure an adequate level of staffing. Community control
556 is an individualized program in which the offender is restricted
557 to a residential treatment facility or a nursing facility
558 ~~noninstitutional quarters~~ or restricted to his or her approved
559 ~~own~~ residence subject to an authorized level of limited freedom.

560 (3) Procedures governing violations of community control
561 are ~~shall be~~ the same as those described in s. 948.06 with
562 respect to probation.

563 (4) Upon completion of the sanctions imposed and ~~in the~~
564 ~~community control plan~~ before the expiration of the community
565 control term ordered by the court, the department may petition
566 the court to terminate early the supervision of ~~discharge~~ the
567 offender from community control supervision or to return the
568 offender to a program of regular probation supervision for the
569 remainder of the term. In considering the petition, the court
570 should recognize the limited staff resources committed to the
571 community control program, the purpose of the program, and the
572 offender's successful compliance with the conditions set forth
573 in the order of the court.

574 (5) ~~In its annual report to the Governor, the President of~~
575 ~~the Senate, and the Speaker of the House of Representatives~~

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576 | ~~under s. 20.315(5), the department shall include a detailed~~
 577 | ~~analysis of the community control program and the department's~~
 578 | ~~specific efforts to protect the public from offenders placed on~~
 579 | ~~community control. The analysis must include, but need not be~~
 580 | ~~limited to, specific information on the department's ability to~~
 581 | ~~meet minimum officer-to-offender contact standards, the number~~
 582 | ~~of crimes committed by offenders on community control, and the~~
 583 | ~~level of community supervision provided.~~

584 | Section 12. Subsection (2) of section 948.101, Florida
 585 | Statutes, is amended to read:

586 | 948.101 Terms and conditions of community control.—

587 | (2) The enumeration of specific kinds of terms and
 588 | conditions does not prevent the court from adding any other
 589 | terms or conditions that the court considers proper. However,
 590 | the sentencing court may only impose a condition of supervision
 591 | allowing an offender convicted of s. 794.011, s. 800.04, s.
 592 | 827.071, s. 847.0135(5), or s. 847.0145 to reside in another
 593 | state if the order stipulates that it is contingent upon the
 594 | approval of the receiving state interstate compact authority.
 595 | The court may rescind or modify at any time the terms and
 596 | conditions theretofore imposed by it upon the offender in
 597 | community control. However, if the court withholds adjudication
 598 | of guilt or imposes a period of incarceration as a condition of
 599 | community control, the period may not exceed 364 days, and
 600 | incarceration shall be restricted to a county facility, a

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601 probation and restitution center under the jurisdiction of the
 602 Department of Corrections, or a ~~probation program drug~~
 603 ~~punishment phase I secure residential treatment institution, or~~
 604 ~~a community residential~~ facility owned or operated by any entity
 605 providing such services.

606 Section 13. Subsections (1), (2), and (3) of section
 607 948.11, Florida Statutes, are amended, and subsection (5) of
 608 that section is republished, to read:

609 948.11 Electronic monitoring devices.—

610 (1) The Department of Corrections shall ~~may~~ electronically
 611 monitor an offender sentenced to community control when the
 612 court has imposed electronic monitoring as a condition of
 613 community control.

614 (2) Any offender placed under supervision ~~on community~~
 615 ~~control~~ who violates the terms and conditions of supervision
 616 ~~community control~~ and is restored to supervision ~~community~~
 617 ~~control~~ may be supervised by means of an electronic monitoring
 618 device or system if ordered by the court.

619 (3) For those offenders being electronically monitored,
 620 the Department of Corrections shall develop procedures to
 621 determine, investigate, and report the offender's noncompliance
 622 with the terms and conditions of sentence 24 hours per day. All
 623 reports of noncompliance shall be immediately investigated by a
 624 probation ~~community control~~ officer.

625 (5) Any person being electronically monitored by the

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626 department as a result of being placed on supervision shall pay
627 the department for the electronic monitoring services as
628 provided in s. 948.09(2).

629 Section 14. Paragraph (b) of subsection (3) of section
630 948.15, Florida Statutes, is amended to read:

631 948.15 Misdemeanor probation services.—

632 (3) Any private entity, including a licensed substance
633 abuse education and intervention program, providing services for
634 the supervision of misdemeanor probationers must contract with
635 the county in which the services are to be rendered. In a county
636 having a population of fewer than 70,000, the county court
637 judge, or the administrative judge of the county court in a
638 county that has more than one county court judge, must approve
639 the contract. Terms of the contract must state, but are not
640 limited to:

641 (b) Staff qualifications and criminal record checks of
642 staff ~~in accordance with essential standards established by the~~
643 ~~American Correctional Association as of January 1, 1991.~~

644
645 In addition, the entity shall supply the chief judge's office
646 with a quarterly report summarizing the number of offenders
647 supervised by the private entity, payment of the required
648 contribution under supervision or rehabilitation, and the number
649 of offenders for whom supervision or rehabilitation will be
650 terminated. All records of the entity must be open to inspection

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651 upon the request of the county, the court, the Auditor General,
 652 the Office of Program Policy Analysis and Government
 653 Accountability, or agents thereof.

654 Section 15. Section 948.50, Florida Statutes, is repealed.

655 Section 16. For the purpose of incorporating the amendment
 656 made by this act to section 948.013, Florida Statutes, in a
 657 reference thereto, paragraph (n) of subsection (1) of section
 658 921.187, Florida Statutes, is reenacted to read:

659 921.187 Disposition and sentencing; alternatives;
 660 restitution.—

661 (1) The alternatives provided in this section for the
 662 disposition of criminal cases shall be used in a manner that
 663 will best serve the needs of society, punish criminal offenders,
 664 and provide the opportunity for rehabilitation. If the offender
 665 does not receive a state prison sentence, the court may:

666 (n) Impose split probation whereby upon satisfactory
 667 completion of half the term of probation, the Department of
 668 Corrections may place the offender on administrative probation
 669 pursuant to s. 948.013 for the remainder of the term of
 670 supervision.

671 Section 17. For the purpose of incorporating the amendment
 672 made by this act to section 948.09, Florida Statutes, in a
 673 reference thereto, paragraph (b) of subsection (7) of section
 674 947.1405, Florida Statutes, is reenacted to read:

675 947.1405 Conditional release program.—

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676 (7)

677 (b) For a releasee whose crime was committed on or after
678 October 1, 1997, in violation of chapter 794, s. 800.04, s.
679 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to
680 conditional release supervision, in addition to any other
681 provision of this subsection, the commission shall impose the
682 following additional conditions of conditional release
683 supervision:

684 1. As part of a treatment program, participation in a
685 minimum of one annual polygraph examination to obtain
686 information necessary for risk management and treatment and to
687 reduce the sex offender's denial mechanisms. The polygraph
688 examination must be conducted by a polygrapher who is a member
689 of a national or state polygraph association and who is
690 certified as a postconviction sex offender polygrapher, where
691 available, and at the expense of the releasee. The results of
692 the examination shall be provided to the releasee's probation
693 officer and qualified practitioner and may not be used as
694 evidence in a hearing to prove that a violation of supervision
695 has occurred.

696 2. Maintenance of a driving log and a prohibition against
697 driving a motor vehicle alone without the prior approval of the
698 supervising officer.

699 3. A prohibition against obtaining or using a post office
700 box without the prior approval of the supervising officer.

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701 4. If there was sexual contact, a submission to, at the
702 releasee's expense, an HIV test with the results to be released
703 to the victim or the victim's parent or guardian.

704 5. Electronic monitoring of any form when ordered by the
705 commission. Any person who has been placed under supervision and
706 is electronically monitored by the department must pay the
707 department for the cost of the electronic monitoring service at
708 a rate that may not exceed the full cost of the monitoring
709 service. Funds collected under this subparagraph shall be
710 deposited into the General Revenue Fund. The department may
711 exempt a person from the payment of all or any part of the
712 electronic monitoring service cost if the department finds that
713 any of the factors listed in s. 948.09(3) exist.

714 Section 18. For the purpose of incorporating the amendment
715 made by this act to section 948.10, Florida Statutes, in a
716 reference thereto, section 947.1747, Florida Statutes, is
717 reenacted to read:

718 947.1747 Community control as a special condition of
719 parole.—Upon the establishment of an effective parole release
720 date as provided for in ss. 947.1745 and 947.1746, the
721 commission may, as a special condition of parole, require an
722 inmate to be placed in the community control program of the
723 Department of Corrections as described in s. 948.10 for a period
724 not exceeding 6 months. In every case in which the commission
725 decides to place an inmate on community control as a special

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726 | condition of parole, the commission shall provide a written
727 | explanation of the reasons for its decision.

728 | Section 19. For the purpose of incorporating the amendment
729 | made by this act to section 948.10, Florida Statutes, in a
730 | reference thereto, subsection (3) of section 948.01, Florida
731 | Statutes, is reenacted to read:

732 | 948.01 When court may place defendant on probation or into
733 | community control.-

734 | (3) If, after considering the provisions of subsection (2)
735 | and the offender's prior record or the seriousness of the
736 | offense, it appears to the court in the case of a felony
737 | disposition that probation is an unsuitable dispositional
738 | alternative to imprisonment, the court may place the offender in
739 | a community control program as provided in s. 948.10. Or, in a
740 | case of prior disposition of a felony commitment, upon motion of
741 | the offender or the department or upon its own motion, the court
742 | may, within the period of its retained jurisdiction following
743 | commitment, suspend the further execution of the disposition and
744 | place the offender in a community control program upon such
745 | terms as the court may require. The court may consult with a
746 | local offender advisory council pursuant to s. 948.90 with
747 | respect to the placement of an offender into community control.
748 | Not later than 3 working days before the hearing on the motion,
749 | the department shall forward to the court all relevant material
750 | on the offender's progress while in custody. If this sentencing

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751 alternative to incarceration is utilized, the court shall:

752 (a) Determine what community-based sanctions will be
753 imposed in the community control plan. Community-based sanctions
754 may include, but are not limited to, rehabilitative restitution
755 in money or in kind, curfew, revocation or suspension of the
756 driver license, community service, deprivation of nonessential
757 activities or privileges, or other appropriate restraints on the
758 offender's liberty.

759 (b) After appropriate sanctions for the offense are
760 determined, develop, approve, and order a plan of community
761 control which contains rules, requirements, conditions, and
762 programs that are designed to encourage noncriminal functional
763 behavior and promote the rehabilitation of the offender and the
764 protection of the community. If the offense was a controlled
765 substance violation, the conditions shall include a requirement
766 that the offender submit to random substance abuse testing
767 intermittently throughout the term of supervision, upon the
768 direction of the correctional probation officer as defined in s.
769 943.10(3).

770 Section 20. Except as otherwise expressly provided in this
771 act, this act shall take effect July 1, 2017.