

By the Committee on Criminal Justice; and Senator Brandes

591-02387A-17

2017790c1

1 A bill to be entitled
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.
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

591-02387A-17

2017790c1

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
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

591-02387A-17

2017790c1

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
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

591-02387A-17

2017790c1

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 an effective date.
 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
 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

591-02387A-17

2017790c1

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
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

591-02387A-17

2017790c1

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

591-02387A-17

2017790c1

- 175 4. Section 794.011, excluding s. 794.011(10);
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 split
180 sentence imposed by the court must extend for at least 2 years.
181 However, if the term of years imposed by the court extends to
182 within 2 years of the maximum sentence for the offense, the
183 probation or community control portion of the split sentence
184 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. Subsection (2) of section 948.013, Florida
195 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 July 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,
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

591-02387A-17

2017790c1

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 July 1,
209 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~~
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

591-02387A-17

2017790c1

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 any:

242 1. Firearm.

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

245 (2) The enumeration of specific kinds of terms and
246 conditions does ~~shall~~ not prevent the court from adding thereto
247 such other or others as it considers proper. However, the
248 sentencing court may only impose a condition of supervision
249 allowing an offender convicted of s. 794.011, s. 800.04, s.
250 827.071, s. 847.0135(5), or s. 847.0145~~7~~ to reside in another
251 state~~7~~ if the order stipulates that it is contingent upon the
252 approval of the receiving state interstate compact authority.
253 The court may rescind or modify at any time the terms and
254 conditions theretofore imposed by it upon the probationer.
255 However, if the court withholds adjudication of guilt or imposes
256 a period of incarceration as a condition of probation, the
257 period may ~~shall~~ not exceed 364 days, and incarceration shall be
258 restricted to either a county facility, or a probation and
259 restitution center under the jurisdiction of the Department of
260 Corrections, ~~a probation program drug punishment phase I secure~~
261 ~~residential treatment institution, or a community residential~~

591-02387A-17

2017790c1

262 ~~facility owned or operated by any entity providing such~~
263 ~~services.~~

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

266 948.031 Condition of probation or community control;
267 community ~~public~~ service.—

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

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

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

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

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

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

290 Section 7. Subsections (1) and (3) of section 948.035,

591-02387A-17

2017790c1

291 Florida Statutes, are amended to read:

292 948.035 Residential treatment as a condition of probation
293 or community control.—

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

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

300 ~~(b) A probation program drug punishment treatment~~
301 ~~community;~~

302 (b) ~~(e)~~ A community residential facility that ~~which~~ is owned
303 and operated by a ~~any~~ public or private entity, excluding a
304 community correctional center as defined in s. 944.026; or

305 (c) ~~(d)~~ A county-owned facility.

306 (3) Before ~~Prior to~~ admission to such a facility or center
307 ~~treatment community~~, a qualified practitioner must provide the
308 ~~court shall obtain~~ an individual assessment and recommendation
309 on the appropriate treatment needs ~~pursuant to the Community~~
310 ~~Control Implementation Manual which shall be considered by the~~
311 ~~court in ordering such placements~~. Placement in such a facility
312 or center may, ~~or in the phase I secure residential phase of a~~
313 ~~probation program drug punishment treatment community~~, shall not
314 exceed 364 days. Early completion of an offender's placement
315 shall be recommended to the court, when appropriate, by the
316 facility or center supervisor, by the supervising probation
317 officer, or by the program manager. The Department of
318 Corrections is authorized to contract with appropriate agencies
319 for provision of services.

591-02387A-17

2017790c1

320 Section 8. Subsection (1) of section 948.037, Florida
321 Statutes, is amended to read:

322 948.037 Education and learning as a condition of probation
323 or community control.—

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

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

347 948.06 Violation of probation or community control;
348 revocation; modification; continuance; failure to pay

591-02387A-17

2017790c1

349 restitution or cost of supervision.—

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

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

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

591-02387A-17

2017790c1

378 of probation or community control or until the court revokes or
379 terminates the probation or community control, whichever comes
380 first.

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

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

394 948.09 Payment for cost of supervision and other monetary
395 obligations ~~rehabilitation.~~-

396 (1)(a)1. Any person ordered by the court, the Department of
397 Corrections, or the Florida Commission on Offender Review to be
398 placed under ~~on probation, drug offender probation, community~~
399 ~~control, parole, control release, provisional release~~
400 ~~supervision, addiction recovery supervision, or conditional~~
401 ~~release~~ supervision under this chapter, chapter 944, chapter
402 945, chapter 947, or chapter 958, or in a pretrial intervention
403 program, must, as a condition of any placement, pay the
404 department a total sum of money equal to the total month or
405 portion of a month of supervision times the court-ordered
406 amount, but not to exceed the actual per diem cost of the

591-02387A-17

2017790c1

407 supervision. The department shall adopt rules by which an
408 offender who pays in full and in advance of regular termination
409 of supervision may receive a reduction in the amount due. The
410 rules shall incorporate provisions by which the offender's
411 ability to pay is linked to an established written payment plan.
412 Funds collected from felony offenders may be used to offset
413 costs of the Department of Corrections associated with community
414 supervision programs, subject to appropriation by the
415 Legislature.

416 2. In addition to any other contribution or surcharge
417 imposed by this section, each felony offender assessed under
418 this paragraph shall pay a \$2-per-month surcharge to the
419 department. The surcharge shall be deemed to be paid only after
420 the full amount of any monthly payment required by the
421 established written payment plan has been collected by the
422 department. These funds shall be used by the department to pay
423 for correctional probation officers' training and equipment,
424 including radios, and firearms training, firearms, and attendant
425 equipment necessary to train and equip officers who choose to
426 carry a concealed firearm while on duty. This subparagraph does
427 not limit the department's authority to determine who shall be
428 authorized to carry a concealed firearm while on duty, or limit
429 the right of a correctional probation officer to carry a
430 personal firearm approved by the department.

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

435 (2) Any person being electronically monitored by the

591-02387A-17

2017790c1

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

445 (3) Any failure to pay contribution as required under this
446 section may constitute a ground for the revocation of
447 supervision ~~probation~~ by the court or, ~~the revocation of parole~~
448 ~~or conditional release~~ by the Florida Commission on Offender
449 Review, the revocation of control release by the Control Release
450 Authority, or the removal from the pretrial intervention program
451 by the state attorney. The Department of Corrections may exempt
452 a person from the payment of all or any part of the contribution
453 if it finds any of the following factors ~~to exist~~:

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

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

463 (c) The offender has an employment handicap, as determined
464 by a physical, psychological, or psychiatric examination

591-02387A-17

2017790c1

465 ~~acceptable to, or ordered by, the secretary.~~

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

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

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

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

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

591-02387A-17

2017790c1

494 ~~department of all offenders for whom supervision or~~
495 ~~rehabilitation will be terminated. Supervisory records of the~~
496 ~~entity shall be open to inspection upon the request of the~~
497 ~~department or its agents.~~

498 (4)~~(5)~~ As a condition of an interstate compact adopted
499 pursuant to chapter 949, the department shall require each out-
500 of-state probationer or parolee transferred to this state to
501 contribute not less than \$30 or more than the cost of
502 supervision, certified by the Department of Corrections, per
503 month to defray the cost incurred by this state as a result of
504 providing supervision and rehabilitation during the period of
505 supervision.

506 (5)~~(6)~~ In addition to any other required contributions, the
507 department, at its discretion, may require offenders under any
508 form of supervision to submit to and pay for urinalysis testing
509 to identify drug usage as part of the rehabilitation program.
510 Any failure to make such payment, or participate, may be
511 considered a ground for revocation by the court, the Florida
512 Commission on Offender Review, or the Control Release Authority,
513 or for removal from the pretrial intervention program by the
514 state attorney. The department may exempt a person from such
515 payment if it determines that any of the factors specified in
516 subsection (3) exist.

517 (6)~~(7)~~ The department shall establish a payment plan for
518 all costs ordered by the courts for collection by the department
519 and a priority order for payments, except that victim
520 restitution payments authorized under s. 948.03(1)(f) take
521 precedence over all other court-ordered payments. The department
522 is not required to disburse cumulative amounts of less than \$10

591-02387A-17

2017790c1

523 to individual payees established on this payment plan.

524 Section 11. Section 948.10, Florida Statutes, is amended to
525 read:

526 948.10 Community control programs; home confinement.-

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

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

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

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

550 (2) ~~The department shall commit not less than 10 percent of~~
551 ~~the parole and probation field staff and supporting resources to~~

591-02387A-17

2017790c1

552 ~~the operation of the community control program.~~ Caseloads should
553 be restricted to a maximum of 30 ~~25~~ cases per officer in order
554 to ensure an adequate level of staffing. Community control is an
555 individualized program in which the offender is restricted to a
556 residential treatment facility or a nursing facility
557 ~~noninstitutional quarters~~ or restricted to his or her approved
558 ~~own~~ residence subject to an authorized level of limited freedom.

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

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

573 ~~(5) In its annual report to the Governor, the President of~~
574 ~~the Senate, and the Speaker of the House of Representatives~~
575 ~~under s. 20.315(5), the department shall include a detailed~~
576 ~~analysis of the community control program and the department's~~
577 ~~specific efforts to protect the public from offenders placed on~~
578 ~~community control. The analysis must include, but need not be~~
579 ~~limited to, specific information on the department's ability to~~
580 ~~meet minimum officer to offender contact standards, the number~~

591-02387A-17

2017790c1

581 ~~of crimes committed by offenders on community control, and the~~
582 ~~level of community supervision provided.~~

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

585 948.101 Terms and conditions of community control.—

586 (2) The enumeration of specific kinds of terms and
587 conditions does not prevent the court from adding any other
588 terms or conditions that the court considers proper. However,
589 the sentencing court may only impose a condition of supervision
590 allowing an offender convicted of s. 794.011, s. 800.04, s.
591 827.071, s. 847.0135(5), or s. 847.0145 to reside in another
592 state if the order stipulates that it is contingent upon the
593 approval of the receiving state interstate compact authority.
594 The court may rescind or modify at any time the terms and
595 conditions theretofore imposed by it upon the offender in
596 community control. However, if the court withholds adjudication
597 of guilt or imposes a period of incarceration as a condition of
598 community control, the period may not exceed 364 days, and
599 incarceration shall be restricted to a county facility, a
600 probation and restitution center under the jurisdiction of the
601 Department of Corrections, or a ~~probation program drug~~
602 ~~punishment phase I secure residential treatment institution, or~~
603 ~~a community residential~~ facility owned or operated by any entity
604 providing such services.

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

608 948.11 Electronic monitoring devices.—

609 (1) The Department of Corrections shall ~~may~~ electronically

591-02387A-17

2017790c1

610 monitor an offender sentenced to community control when the
611 court has imposed electronic monitoring as a condition of
612 community control.

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

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

624 (5) Any person being electronically monitored by the
625 department as a result of being placed on supervision shall pay
626 the department for the electronic monitoring services as
627 provided in s. 948.09(2).

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

630 948.15 Misdemeanor probation services.—

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

591-02387A-17

2017790c1

639 limited to:

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

643

644 In addition, the entity shall supply the chief judge's office
645 with a quarterly report summarizing the number of offenders
646 supervised by the private entity, payment of the required
647 contribution under supervision or rehabilitation, and the number
648 of offenders for whom supervision or rehabilitation will be
649 terminated. All records of the entity must be open to inspection
650 upon the request of the county, the court, the Auditor General,
651 the Office of Program Policy Analysis and Government
652 Accountability, or agents thereof.

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

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

658 921.187 Disposition and sentencing; alternatives;
659 restitution.-

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

665 (n) Impose split probation whereby upon satisfactory
666 completion of half the term of probation, the Department of
667 Corrections may place the offender on administrative probation

591-02387A-17

2017790c1

668 pursuant to s. 948.013 for the remainder of the term of
669 supervision.

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

674 947.1405 Conditional release program.—

675 (7)

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

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

695 2. Maintenance of a driving log and a prohibition against
696 driving a motor vehicle alone without the prior approval of the

591-02387A-17

2017790c1

697 supervising officer.

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

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

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

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

717 947.1747 Community control as a special condition of
718 parole.—Upon the establishment of an effective parole release
719 date as provided for in ss. 947.1745 and 947.1746, the
720 commission may, as a special condition of parole, require an
721 inmate to be placed in the community control program of the
722 Department of Corrections as described in s. 948.10 for a period
723 not exceeding 6 months. In every case in which the commission
724 decides to place an inmate on community control as a special
725 condition of parole, the commission shall provide a written

591-02387A-17

2017790c1

726 explanation of the reasons for its decision.

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

731 948.01 When court may place defendant on probation or into
732 community control.-

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

751 (a) Determine what community-based sanctions will be
752 imposed in the community control plan. Community-based sanctions
753 may include, but are not limited to, rehabilitative restitution
754 in money or in kind, curfew, revocation or suspension of the

591-02387A-17

2017790c1

755 driver license, community service, deprivation of nonessential
756 activities or privileges, or other appropriate restraints on the
757 offender's liberty.

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

769 Section 20. This act shall take effect July 1, 2017.