

By the Committees on Appropriations; and Criminal Justice; and
Senators Gainer and Pizzo

576-03567-22

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1 A bill to be entitled
2 An act relating to probationary or supervision
3 services for misdemeanor offenders; amending s.
4 948.01, F.S.; authorizing the Department of
5 Corrections to supervise certain misdemeanor
6 offenders; deleting a prohibition on private entities
7 providing probationary or supervision services to
8 certain misdemeanor offenders; amending s. 948.03,
9 F.S.; authorizing a probationer or offender in
10 community control to report to a probation officer
11 through remote reporting under specified
12 circumstances; requiring a probation officer to take
13 specified circumstances into consideration when
14 scheduling meetings; requiring the department and
15 county probation authorities or entities to adopt and
16 make available certain probation reporting policies;
17 deleting remaining within a specified place as a
18 standard condition of probation; amending s. 948.05,
19 F.S.; requiring the department to reduce a
20 probationer's or offender's supervision term by a
21 specified amount of time for completing an educational
22 advancement activity; defining the term "educational
23 advancement activity"; amending s. 948.15, F.S.;
24 authorizing a private or public entity to provide
25 probation services and other specified programming to
26 misdemeanor offenders; revising who may approve
27 specified contracts; amending s. 948.09, F.S.;
28 conforming a cross-reference; providing an effective
29 date.

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

Section 1. Paragraph (a) of subsection (1) and subsection (5) of section 948.01, Florida Statutes, are amended to read:

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

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

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

(5) The imposition of sentence may not be suspended and the defendant thereupon placed on probation or into community control unless the defendant is placed under the custody of the department or another public or private entity. A private entity

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59 may not provide probationary or supervision services to felony
60 ~~or misdemeanor~~ offenders sentenced or placed on probation or
61 other supervision ~~by the circuit court.~~

62 Section 2. Paragraphs (a) and (d) of subsection (1) of
63 section 948.03, Florida Statutes, are amended to read:

64 948.03 Terms and conditions of probation.—

65 (1) The court shall determine the terms and conditions of
66 probation. Conditions specified in this section do not require
67 oral pronouncement at the time of sentencing and may be
68 considered standard conditions of probation. These conditions
69 may include among them the following, that the probationer or
70 offender in community control shall:

71 (a) Report to the probation officer as directed. Such
72 reporting requirements may be fulfilled through remote reporting
73 if approved by the relevant probation officer, the relevant
74 county probation authority or entity, or the Department of
75 Corrections and if the court has not excluded the possibility of
76 remote reporting by the defendant in his or her order of
77 probation. The probation officer shall schedule meetings
78 required as a condition of probation at times and locations that
79 take into consideration and accommodate the work schedule,
80 family caregiver obligations, and medical care of the
81 probationer unless doing so would cause a threat to public
82 safety. The Department of Corrections and county probation
83 authorities or entities shall adopt and make available probation
84 reporting policies that allow for remote reporting and consider
85 the scheduling conflicts referenced in this paragraph.

86 ~~(d) Remain within a specified place.~~

87 Section 3. Subsection (2) of section 948.05, Florida

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88 Statutes, is amended to read:

89 948.05 Court to admonish or commend probationer or offender
90 in community control; graduated incentives.-

91 (2) The department shall implement a system of graduated
92 incentives to promote compliance with the terms of supervision,
93 encourage stable employment, and prioritize the highest levels
94 of supervision for probationers or offenders presenting the
95 greatest risk of recidivism.

96 (a) As part of the graduated incentives system, the
97 department may, without leave of court, offer the following
98 incentives to a compliant probationer or offender in community
99 control:

- 100 1. Up to 25 percent reduction of required community service
101 hours;
- 102 2. Waiver of supervision fees;
- 103 3. Reduction in frequency of reporting;
- 104 4. Permission to report by mail or telephone; or
- 105 5. Transfer of an eligible offender to administrative
106 probation as authorized under s. 948.013.

107 (b) The department may also incentivize positive behavior
108 and compliance with recommendations to the court to modify the
109 terms of supervision, including recommending:

- 110 1. Permission to travel;
- 111 2. Reduction of supervision type;
- 112 3. Modification or cessation of curfew;
- 113 4. Reduction or cessation of substance abuse testing; or
- 114 5. Early termination of supervision.

115 (c) The department shall, without leave of court,
116 incentivize educational achievement by awarding a compliant

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117 probationer or offender in community control with a 60-day
118 reduction of his or her term of supervision for each educational
119 advancement activity he or she completes during the term of
120 supervision. As used in this paragraph, the term "educational
121 advancement activity" means a high school equivalency degree, an
122 academic degree, or a vocational certificate.

123 (d) A probationer or offender who commits a subsequent
124 violation of probation may forfeit any previously earned
125 probation incentive, as determined appropriate by his or her
126 probation officer.

127 Section 4. Subsections (2) and (3) of section 948.15,
128 Florida Statutes, are amended to read:

129 948.15 Misdemeanor probation services.—

130 (2) A private entity or public entity, including a licensed
131 substance abuse education and intervention program, under the
132 supervision of the board of county commissioners or the court
133 may provide probation services and licensed substance abuse
134 education and treatment intervention programs for misdemeanor
135 offenders sentenced or placed on probation ~~by the county court.~~

136 (3) Any private entity, including a licensed substance
137 abuse education and intervention program, providing services for
138 the supervision of misdemeanor probationers must contract with
139 the county in which the services are to be rendered. The chief
140 judge ~~In a county having a population of fewer than 70,000, the~~
141 ~~county court judge, or the administrative judge of the county~~
142 ~~court in a county that has more than one county court judge,~~
143 must approve the contract. Terms of the contract must state, but
144 are not limited to:

145 (a) The extent of the services to be rendered by the entity

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146 providing supervision or rehabilitation.

147 (b) Staff qualifications and criminal record checks of
148 staff.

149 (c) Staffing levels.

150 (d) The number of face-to-face contacts with the offender.

151 (e) Procedures for handling the collection of all offender
152 fees and restitution.

153 (f) Procedures for handling indigent offenders which ensure
154 placement irrespective of ability to pay.

155 (g) Circumstances under which revocation of an offender's
156 probation may be recommended.

157 (h) Reporting and recordkeeping requirements.

158 (i) Default and contract termination procedures.

159 (j) Procedures that aid offenders with job assistance.

160 (k) Procedures for accessing criminal history records of
161 probationers.

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163 In addition, the entity shall supply the chief judge's office
164 with a quarterly report summarizing the number of offenders
165 supervised by the private entity, payment of the required
166 contribution under supervision or rehabilitation, and the number
167 of offenders for whom supervision or rehabilitation will be
168 terminated. All records of the entity must be open to inspection
169 upon the request of the county, the court, the Auditor General,
170 the Office of Program Policy Analysis and Government
171 Accountability, or agents thereof.

172 Section 5. Subsection (6) of section 948.09, Florida
173 Statutes, is amended to read:

174 948.09 Payment for cost of supervision and other monetary

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175 obligations.—

176 (6) The department shall establish a payment plan for all
177 costs ordered by the courts for collection by the department and
178 a priority order for payments, except that victim restitution
179 payments authorized under s. 948.03(1)(e) ~~s. 948.03(1)(f)~~ take
180 precedence over all other court-ordered payments. The department
181 is not required to disburse cumulative amounts of less than \$10
182 to individual payees established on this payment plan.

183 Section 6. This act shall take effect July 1, 2022.