

26 921.0024 Criminal Punishment Code; worksheet computations;
 27 scoresheets.—

28 (1)

29 (b) WORKSHEET KEY:

30 Legal status points are assessed when any form of legal status
 31 existed at the time the offender committed an offense before the
 32 court for sentencing. Four (4) sentence points are assessed for
 33 an offender's legal status.

34

35 Community sanction violation points are assessed when a
 36 community sanction violation is before the court for sentencing.
 37 Six (6) sentence points are assessed for each community sanction
 38 violation and each successive community sanction violation,
 39 unless any of the following apply:

40 1. If the community sanction violation includes a new
 41 felony conviction before the sentencing court, twelve (12)
 42 community sanction violation points are assessed for the
 43 violation, and for each successive community sanction violation
 44 involving a new felony conviction.

45 2. If the community sanction violation is committed by a
 46 violent felony offender of special concern as defined in s.
 47 948.06:

48 a. Twelve (12) community sanction violation points are
 49 assessed for the violation and for each successive violation of
 50 felony probation or community control where:

51 I. The violation does not include a new felony conviction;
 52 and

53 II. The community sanction violation is not based solely
 54 on the probationer or offender's failure to pay costs or fines
 55 or make restitution payments.

56 b. Twenty-four (24) community sanction violation points
 57 are assessed for the violation and for each successive violation
 58 of felony probation or community control where the violation
 59 includes a new felony conviction.

60
 61 Multiple counts of community sanction violations before the
 62 sentencing court shall not be a basis for multiplying the
 63 assessment of community sanction violation points.

64
 65 If the community sanction violation is resolved through the
 66 alternative sanctioning program under s. 948.06(9), no points
 67 are assessed. If a community sanction violation not resolved
 68 through the alternative sanctioning program is before the court,
 69 no points are assessed for prior violations that were resolved
 70 through the alternative sanctioning program.

71
 72 Prior serious felony points: If the offender has a primary
 73 offense or any additional offense ranked in level 8, level 9, or
 74 level 10, and one or more prior serious felonies, a single
 75 assessment of thirty (30) points shall be added. For purposes of

76 | this section, a prior serious felony is an offense in the
77 | offender's prior record that is ranked in level 8, level 9, or
78 | level 10 under s. 921.0022 or s. 921.0023 and for which the
79 | offender is serving a sentence of confinement, supervision, or
80 | other sanction or for which the offender's date of release from
81 | confinement, supervision, or other sanction, whichever is later,
82 | is within 3 years before the date the primary offense or any
83 | additional offense was committed.

84 |
85 | Prior capital felony points: If the offender has one or more
86 | prior capital felonies in the offender's criminal record, points
87 | shall be added to the subtotal sentence points of the offender
88 | equal to twice the number of points the offender receives for
89 | the primary offense and any additional offense. A prior capital
90 | felony in the offender's criminal record is a previous capital
91 | felony offense for which the offender has entered a plea of nolo
92 | contendere or guilty or has been found guilty; or a felony in
93 | another jurisdiction which is a capital felony in that
94 | jurisdiction, or would be a capital felony if the offense were
95 | committed in this state.

96 |
97 | Possession of a firearm, semiautomatic firearm, or machine gun:
98 | If the offender is convicted of committing or attempting to
99 | commit any felony other than those enumerated in s. 775.087(2)
100 | while having in his or her possession: a firearm as defined in

101 s. 790.001(6), an additional eighteen (18) sentence points are
102 assessed; or if the offender is convicted of committing or
103 attempting to commit any felony other than those enumerated in
104 s. 775.087(3) while having in his or her possession a
105 semiautomatic firearm as defined in s. 775.087(3) or a machine
106 gun as defined in s. 790.001(9), an additional twenty-five (25)
107 sentence points are assessed.

108

109 Sentencing multipliers:

110

111 Drug trafficking: If the primary offense is drug trafficking
112 under s. 893.135, the subtotal sentence points are multiplied,
113 at the discretion of the court, for a level 7 or level 8
114 offense, by 1.5. The state attorney may move the sentencing
115 court to reduce or suspend the sentence of a person convicted of
116 a level 7 or level 8 offense, if the offender provides
117 substantial assistance as described in s. 893.135(4).

118

119 Law enforcement protection: If the primary offense is a
120 violation of the Law Enforcement Protection Act under s.
121 775.0823(2), (3), or (4), the subtotal sentence points are
122 multiplied by 2.5. If the primary offense is a violation of s.
123 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
124 are multiplied by 2.0. If the primary offense is a violation of
125 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement

126 Protection Act under s. 775.0823(10) or (11), the subtotal
127 sentence points are multiplied by 1.5.

128
129 Grand theft of a motor vehicle: If the primary offense is grand
130 theft of the third degree involving a motor vehicle and in the
131 offender's prior record, there are three or more grand thefts of
132 the third degree involving a motor vehicle, the subtotal
133 sentence points are multiplied by 1.5.

134
135 Offense related to a criminal gang: If the offender is convicted
136 of the primary offense and committed that offense for the
137 purpose of benefiting, promoting, or furthering the interests of
138 a criminal gang as defined in s. 874.03, the subtotal sentence
139 points are multiplied by 1.5. If applying the multiplier results
140 in the lowest permissible sentence exceeding the statutory
141 maximum sentence for the primary offense under chapter 775, the
142 court may not apply the multiplier and must sentence the
143 defendant to the statutory maximum sentence.

144
145 Domestic violence in the presence of a child: If the offender is
146 convicted of the primary offense and the primary offense is a
147 crime of domestic violence, as defined in s. 741.28, which was
148 committed in the presence of a child under 16 years of age who
149 is a family or household member as defined in s. 741.28(3) with
150 the victim or perpetrator, the subtotal sentence points are

151 multiplied by 1.5.

152

153 Adult-on-minor sex offense: If the offender was 18 years of age
154 or older and the victim was younger than 18 years of age at the
155 time the offender committed the primary offense, and if the
156 primary offense was an offense committed on or after October 1,
157 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
158 violation involved a victim who was a minor and, in the course
159 of committing that violation, the defendant committed a sexual
160 battery under chapter 794 or a lewd act under s. 800.04 or s.
161 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
162 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
163 800.04; or s. 847.0135(5), the subtotal sentence points are
164 multiplied by 2.0. If applying the multiplier results in the
165 lowest permissible sentence exceeding the statutory maximum
166 sentence for the primary offense under chapter 775, the court
167 may not apply the multiplier and must sentence the defendant to
168 the statutory maximum sentence.

169 Section 2. Paragraph (c) of subsection (1), paragraph (f)
170 of subsection (2), subsection (4), and paragraphs (c), (d), (e),
171 and (i) of subsection (9) of section 948.06, Florida Statutes,
172 are amended to read:

173 948.06 Violation of probation or community control;
174 revocation; modification; continuance; failure to pay
175 restitution or cost of supervision.—

176 (1)

177 (c) If a probationer or offender on community control

178 commits a technical violation, the probation officer shall

179 determine whether the probationer or offender on community

180 control is eligible for the alternative sanctioning program

181 under subsection (9). If the probation officer determines that

182 the probationer or offender on community control is eligible,

183 the probation officer may proceed with the alternative

184 sanctioning program in lieu of filing an affidavit of violation

185 with the court. If the probationer or offender on community

186 control is eligible for the alternative sanctioning program and

187 the violation is a low-risk violation, as defined in paragraph

188 (9)(b), the probation officer shall proceed with the alternative

189 sanctioning program in lieu of filing an affidavit of violation

190 with the court unless directed by the court to submit or file an

191 affidavit of violation pursuant to paragraph (9)(i). For

192 purposes of this section, the term "technical violation" means

193 an alleged violation of supervision that is not a new felony

194 offense, a misdemeanor violation of chapter 784, a misdemeanor

195 crime of domestic violence, as defined in s. 741.28, or a

196 misdemeanor under s. 316.193, s. 741.29, s. 741.31, s. 784.046,

197 s. 784.047, s. 784.048, s. 784.0487, s. 784.049, or s. 787.025

198 ~~misdemeanor offense~~, or criminal traffic offense other than a

199 misdemeanor violation of s. 322.34.

200 (2)

201 (f)1. Except as provided in subparagraph 4. ~~3.~~ or upon
 202 waiver by the probationer, the court shall modify or continue a
 203 probationary term upon finding a probationer in violation when
 204 all of the following apply:

205 a. The term of supervision is probation.

206 b. The probationer does not qualify as a violent felony
 207 offender of special concern, as defined in paragraph (8) (b).

208 c. The violation is a low-risk technical violation, as
 209 defined in paragraph (9) (b).

210 d. The court has not, on two or more separate occasions,
 211 previously found the probationer in violation of his or her
 212 probation pursuant to a filed violation of probation affidavit
 213 during the current term of supervision. A probationer who has
 214 successfully completed sanctions through the alternative
 215 sanctioning program is eligible for mandatory modification or
 216 continuation of his or her probation.

217 2. Upon modifying probation under subparagraph 1., the
 218 court may include in the sentence a maximum of 90 days in county
 219 jail as a special condition of probation. If the court has
 220 previously found the probationer in violation of his or her
 221 probation and modified probation with up to 90 days in county
 222 jail as a special condition of probation it may, upon
 223 modification of probation under subparagraph 1., include in the
 224 sentence a maximum of 120 days in county jail as a special
 225 condition of probation.

226 ~~3.2.~~ Upon modifying probation under subparagraph 1., the
227 court may include in the sentence a maximum of 90 days in county
228 jail as a special condition of probation.

229 ~~4.3.~~ Notwithstanding s. 921.0024, if a probationer meets
230 the criteria for mandatory modification in subparagraph 1. but
231 has less time on supervision remaining than the number of days
232 in jail authorized in subparagraph 2. than 90 days of
233 supervision remaining on his or her term of probation and meets
234 the criteria for mandatory modification or continuation in
235 subparagraph 1., the court may revoke probation and sentence the
236 probationer to a maximum of 90 or 120 days in county jail as
237 provided in subparagraph 2.

238 ~~5.4.~~ For purposes of imposing a jail sentence under this
239 paragraph only, the court may grant credit only for time served
240 in the county jail since the probationer's most recent arrest
241 for the violation. However, the court may not order the
242 probationer to a total term of incarceration greater than the
243 maximum provided by s. 775.082.

244 (4) Notwithstanding any other provision of this section, a
245 felony probationer or an offender in community control who is
246 arrested for violating his or her probation or community control
247 in a material respect may be taken before the court in the
248 county or circuit in which the probationer or offender was
249 arrested. That court shall advise him or her of the charge of a
250 violation and, if such charge is admitted, shall cause him or

251 her to be brought before the court that granted the probation or
252 community control. If the violation is not admitted by the
253 probationer or offender, the court may commit him or her or
254 release him or her with or without bail to await further
255 hearing. However, if the probationer or offender is under
256 supervision for any criminal offense proscribed in chapter 794,
257 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a
258 registered sexual predator or a registered sexual offender, or
259 is under supervision for a criminal offense for which he or she
260 would meet the registration criteria in s. 775.21, s. 943.0435,
261 or s. 944.607 but for the effective date of those sections, the
262 court must make a finding that the probationer or offender is
263 not a danger to the public prior to release with or without
264 bail. In determining the danger posed by the offender's or
265 probationer's release, the court may consider the nature and
266 circumstances of the violation and any new offenses charged; the
267 offender's or probationer's past and present conduct, including
268 convictions of crimes; any record of arrests without conviction
269 for crimes involving violence or sexual crimes; any other
270 evidence of allegations of unlawful sexual conduct or the use of
271 violence by the offender or probationer; the offender's or
272 probationer's family ties, length of residence in the community,
273 employment history, and mental condition; his or her history and
274 conduct during the probation or community control supervision
275 from which the violation arises and any other previous

276 supervisions, including disciplinary records of previous
277 incarcerations; the likelihood that the offender or probationer
278 will engage again in a criminal course of conduct; the weight of
279 the evidence against the offender or probationer; and any other
280 facts the court considers relevant. The court, as soon as is
281 practicable, shall give the probationer or offender an
282 opportunity to be fully heard on his or her behalf in person or
283 by counsel. If the alleged violation is a low-risk violation, as
284 defined in paragraph (9)(b), the court shall, within 20 days
285 after arrest, give the probationer or offender an opportunity to
286 be fully heard on his or her behalf in person or by counsel. If
287 no hearing is held within 20 days after arrest, the court shall
288 release the probationer or offender without bail. The court may
289 impose nonmonetary conditions of release. After the hearing, the
290 court shall make findings of fact and forward the findings to
291 the court that granted the probation or community control and to
292 the probationer or offender or his or her attorney. The findings
293 of fact by the hearing court are binding on the court that
294 granted the probation or community control. Upon the probationer
295 or offender being brought before it, the court that granted the
296 probation or community control may revoke, modify, or continue
297 the probation or community control or may place the probationer
298 into community control as provided in this section. However, the
299 probationer or offender shall not be released and shall not be
300 admitted to bail, but shall be brought before the court that

301 granted the probation or community control if any violation of
 302 felony probation or community control other than a failure to
 303 pay costs or fines or make restitution payments is alleged to
 304 have been committed by:

305 (a) A violent felony offender of special concern, as
 306 defined in this section;

307 (b) A person who is on felony probation or community
 308 control for any offense committed on or after the effective date
 309 of this act and who is arrested for a qualifying offense as
 310 defined in this section; or

311 (c) A person who is on felony probation or community
 312 control and has previously been found by a court to be a
 313 habitual violent felony offender as defined in s. 775.084(1)(b),
 314 a three-time violent felony offender as defined in s.
 315 775.084(1)(c), or a sexual predator under s. 775.21, and who is
 316 arrested for committing a qualifying offense as defined in this
 317 section on or after the effective date of this act.

318 (9)

319 (c) As used in this subsection, the term "moderate-risk
 320 violation" means any of the following:

321 1. A violation identified in paragraph (b), when committed
 322 by an offender on community control.

323 2. Failure to remain at an approved residence by an
 324 offender on community control.

325 3. A third violation identified in paragraph (b) by a

326 probationer within the current term of supervision.

327 4. A new misdemeanor offense that is not a misdemeanor
 328 violation of chapter 784, a misdemeanor crime of domestic
 329 violence, as defined in s. 741.28, or a misdemeanor under s.
 330 316.193, s. 741.29, s. 741.31, s. 784.046, s. 784.047, s.
 331 784.048, s. 784.0487, s. 784.049, or s. 787.025.

332 ~~5.4.~~ Any other violation as determined by administrative
 333 order of the chief judge of the circuit.

334 (d) A probationer or offender on community control is not
 335 eligible for an alternative sanction if:

336 1. He or she is a violent felony offender of special
 337 concern as defined in paragraph (8) (b);

338 2. The violation is a felony, a misdemeanor violation of
 339 chapter 784, a misdemeanor crime of domestic violence, as
 340 defined in s. 741.28, or a misdemeanor under s. 316.193, s.
 341 741.29, s. 741.31, s. 784.046, s. 784.047, s. 784.048, s.
 342 784.0487, s. 784.049, or s. 787.025 ~~misdemeanor~~, or criminal
 343 traffic offense other than a misdemeanor violation of s. 322.34;

344 3. The violation is absconding;

345 4. The violation is of a stay-away order or no-contact
 346 order;

347 5. The violation is not identified as low-risk or
 348 moderate-risk under this subsection or by administrative order;

349 6. He or she has a prior moderate-risk level violation
 350 during the current term of supervision;

351 7. He or she has three prior low-risk level violations
352 during the same term of supervision;

353 8. The term of supervision is scheduled to terminate in
354 less than 90 days; or

355 9. The terms of the sentence prohibit alternative
356 sanctioning.

357 (e) For a first or second low-risk violation, as defined
358 in paragraph (b), within the current term of supervision, a
359 probation officer shall ~~may~~ offer an eligible probationer one or
360 more of the following as an alternative sanction:

- 361 1. Up to 5 days in the county jail.
- 362 2. Up to 50 additional community service hours.
- 363 3. Counseling or treatment.
- 364 4. Support group attendance.
- 365 5. Drug testing.
- 366 6. Loss of travel or other privileges.
- 367 7. Curfew for up to 30 days.
- 368 8. House arrest for up to 30 days.

369 9.a. Any other sanction as determined by administrative
370 order of the chief judge of the circuit.

371 b. However, in no circumstance shall participation in an
372 alternative sanctioning program convert a withheld adjudication
373 to an adjudication of guilt.

374 (i) If the violation is a low-risk violation under
375 paragraph (b), the court shall impose the recommended sanction

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376 | unless it records a finding of specific, identified risk to
377 | public safety, in which case it may direct the department to
378 | submit a violation report, affidavit, and warrant to the court.
379 | In all other cases, the court may impose the recommended
380 | sanction or direct the department to submit a violation report,
381 | affidavit, and warrant to the court.

382 | Section 3. This act shall take effect October 1, 2023.