



185804

LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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04/28/2023 04:04 PM

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Senator Simon moved the following:

Senate Amendment (with title amendment)

Delete lines 176 - 400

and insert:

Section 2. Paragraph (c) of subsection (1), subsection (4), and paragraphs (e) and (i) of subsection (9) of section 948.06, Florida Statutes, are amended to read:

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

(1)



12 (c) If a probationer or offender on community control
13 commits a technical violation, the probation officer shall
14 determine whether the probationer or offender on community
15 control is eligible for the alternative sanctioning program
16 under subsection (9). If the probation officer determines that
17 the probationer or offender on community control is eligible,
18 the probation officer may proceed with the alternative
19 sanctioning program in lieu of filing an affidavit of violation
20 with the court. If the probationer or offender on community
21 control is eligible for the alternative sanctioning program and
22 the violation is a low-risk violation as defined in paragraph
23 (9) (b), the probation officer must proceed with the alternative
24 sanctioning program in lieu of filing an affidavit of violation
25 with the court unless directed by the court to submit or file an
26 affidavit of violation pursuant to paragraph (9) (i). For
27 purposes of this section, the term "technical violation" means
28 an alleged violation of supervision that is not a new felony
29 offense, misdemeanor offense, or criminal traffic offense.

30 (4) Notwithstanding any other provision of this section, a
31 felony probationer or an offender in community control who is
32 arrested for violating his or her probation or community control
33 in a material respect may be taken before the court in the
34 county or circuit in which the probationer or offender was
35 arrested. That court shall advise him or her of the charge of a
36 violation and, if such charge is admitted, shall cause him or
37 her to be brought before the court that granted the probation or
38 community control. If the violation is not admitted by the
39 probationer or offender, the court may commit him or her or
40 release him or her with or without bail to await further



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41 hearing. However, if the probationer or offender is under
42 supervision for any criminal offense proscribed in chapter 794,
43 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a
44 registered sexual predator or a registered sexual offender, or
45 is under supervision for a criminal offense for which he or she
46 would meet the registration criteria in s. 775.21, s. 943.0435,
47 or s. 944.607 but for the effective date of those sections, the
48 court must make a finding that the probationer or offender is
49 not a danger to the public prior to release with or without
50 bail. In determining the danger posed by the offender's or
51 probationer's release, the court may consider the nature and
52 circumstances of the violation and any new offenses charged; the
53 offender's or probationer's past and present conduct, including
54 convictions of crimes; any record of arrests without conviction
55 for crimes involving violence or sexual crimes; any other
56 evidence of allegations of unlawful sexual conduct or the use of
57 violence by the offender or probationer; the offender's or
58 probationer's family ties, length of residence in the community,
59 employment history, and mental condition; his or her history and
60 conduct during the probation or community control supervision
61 from which the violation arises and any other previous
62 supervisions, including disciplinary records of previous
63 incarcerations; the likelihood that the offender or probationer
64 will engage again in a criminal course of conduct; the weight of
65 the evidence against the offender or probationer; and any other
66 facts the court considers relevant. The court, as soon as is
67 practicable, shall give the probationer or offender an
68 opportunity to be fully heard on his or her behalf in person or
69 by counsel. If the alleged violation is a low-risk violation as



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70 defined in paragraph (9)(b), the court must, within 20 days
71 after arrest, give the probationer or offender an opportunity to
72 be fully heard on his or her behalf in person or by counsel. If
73 no hearing is held within 20 days after arrest, the court must
74 release the probationer or offender without bail. The court may
75 impose nonmonetary conditions of release. After the hearing, the
76 court shall make findings of fact and forward the findings to
77 the court that granted the probation or community control and to
78 the probationer or offender or his or her attorney. The findings
79 of fact by the hearing court are binding on the court that
80 granted the probation or community control. Upon the probationer
81 or offender being brought before it, the court that granted the
82 probation or community control may revoke, modify, or continue
83 the probation or community control or may place the probationer
84 into community control as provided in this section. However, the
85 probationer or offender shall not be released and shall not be
86 admitted to bail, but shall be brought before the court that
87 granted the probation or community control if any violation of
88 felony probation or community control other than a failure to
89 pay costs or fines or make restitution payments is alleged to
90 have been committed by:

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

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

97 (c) A person who is on felony probation or community
98 control and has previously been found by a court to be a



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99 habitual violent felony offender as defined in s. 775.084(1)(b),
100 a three-time violent felony offender as defined in s.
101 775.084(1)(c), or a sexual predator under s. 775.21, and who is
102 arrested for committing a qualifying offense as defined in this
103 section on or after the effective date of this act.

104 (9)

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

- 109 1. Up to 5 days in the county jail.
- 110 2. Up to 50 additional community service hours.
- 111 3. Counseling or treatment.
- 112 4. Support group attendance.
- 113 5. Drug testing.
- 114 6. Loss of travel or other privileges.
- 115 7. Curfew for up to 30 days.
- 116 8. House arrest for up to 30 days.
- 117 9.a. Any other sanction as determined by administrative
118 order of the chief judge of the circuit.

119 b. However, in no circumstance shall participation in an
120 alternative sanctioning program convert a withheld adjudication
121 to an adjudication of guilt.

122
123 ===== T I T L E A M E N D M E N T =====

124 And the title is amended as follows:

125 Delete lines 10 - 23

126 and insert:

127 circumstances; correcting provisions concerning



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128 limiting prison sentences for first-time revocations
129 for technical violations; providing time periods for
130 hearing and release of a probationer or offender
131 concerning alleged violations that are low-risk
132 violations; providing that an alternative sanction is
133 the required method for resolving certain low-risk
134 violations;