

By the Committee on Criminal Justice; and Senator Simon

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1                   A bill to be entitled  
2       An act relating to criminal sentencing; amending s.  
3       921.0024, F.S.; prohibiting points from being assessed  
4       for violations of community sanctions which are  
5       resolved under an alternative sanctioning program for  
6       purposes of calculations under the Criminal Punishment  
7       Code; amending s. 948.06, F.S.; providing for the  
8       resolution of low-risk violations of probation through  
9       an alternative sanctioning program in certain  
10      circumstances; revising the definition of the term  
11      "technical violation"; correcting provisions  
12      concerning limiting prison sentences for first-time  
13      revocations for technical violations; providing for  
14      structured sentences when technical violations result  
15      in prison terms in certain circumstances; providing  
16      time periods for hearing and release of a probationer  
17      or offender concerning alleged violations that are  
18      low-risk violations; revising the definition of the  
19      term "moderate-risk violation"; providing that an  
20      alternative sanction is the required method for  
21      resolving certain low-risk violations; requiring the  
22      state attorney to consent to the offering of an  
23      alternative sanction under certain circumstances;  
24      requiring a court to impose the recommended sanction  
25      for certain low-risk violations; providing an  
26      exception; providing an effective date.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Paragraph (b) of subsection (1) of section  
31 921.0024, Florida Statutes, is amended to read:

32 921.0024 Criminal Punishment Code; worksheet computations;  
33 scoresheets.—

34 (1)

35 (b) WORKSHEET KEY:

36  
37 Legal status points are assessed when any form of legal status  
38 existed at the time the offender committed an offense before the  
39 court for sentencing. Four (4) sentence points are assessed for  
40 an offender's legal status.

41  
42 Community sanction violation points are assessed when a  
43 community sanction violation is before the court for sentencing.  
44 Six (6) sentence points are assessed for each community sanction  
45 violation and each successive community sanction violation,  
46 unless any of the following apply:

47 1. If the community sanction violation includes a new  
48 felony conviction before the sentencing court, twelve (12)  
49 community sanction violation points are assessed for the  
50 violation, and for each successive community sanction violation  
51 involving a new felony conviction.

52 2. If the community sanction violation is committed by a  
53 violent felony offender of special concern as defined in s.  
54 948.06:

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

58 I. The violation does not include a new felony conviction;

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59 and

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

63 b. Twenty-four (24) community sanction violation points are  
64 assessed for the violation and for each successive violation of  
65 felony probation or community control where the violation  
66 includes a new felony conviction.

67  
68 Multiple counts of community sanction violations before the  
69 sentencing court shall not be a basis for multiplying the  
70 assessment of community sanction violation points.

71  
72 If the community sanction violation is resolved through the  
73 alternative sanctioning program under s. 948.06(9), no points  
74 are assessed. If a community sanction violation not resolved  
75 through the alternative sanctioning program is before the court,  
76 no points are assessed for prior violations that were resolved  
77 through the alternative sanctioning program.

78  
79 Prior serious felony points: If the offender has a primary  
80 offense or any additional offense ranked in level 8, level 9, or  
81 level 10, and one or more prior serious felonies, a single  
82 assessment of thirty (30) points shall be added. For purposes of  
83 this section, a prior serious felony is an offense in the  
84 offender's prior record that is ranked in level 8, level 9, or  
85 level 10 under s. 921.0022 or s. 921.0023 and for which the  
86 offender is serving a sentence of confinement, supervision, or  
87 other sanction or for which the offender's date of release from

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88 confinement, supervision, or other sanction, whichever is later,  
89 is within 3 years before the date the primary offense or any  
90 additional offense was committed.

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

103  
104 Possession of a firearm, semiautomatic firearm, or machine gun:  
105 If the offender is convicted of committing or attempting to  
106 commit any felony other than those enumerated in s. 775.087(2)  
107 while having in his or her possession: a firearm as defined in  
108 s. 790.001(6), an additional eighteen (18) sentence points are  
109 assessed; or if the offender is convicted of committing or  
110 attempting to commit any felony other than those enumerated in  
111 s. 775.087(3) while having in his or her possession a  
112 semiautomatic firearm as defined in s. 775.087(3) or a machine  
113 gun as defined in s. 790.001(9), an additional twenty-five (25)  
114 sentence points are assessed.

115  
116 Sentencing multipliers:

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117

118 Drug trafficking: If the primary offense is drug trafficking  
119 under s. 893.135, the subtotal sentence points are multiplied,  
120 at the discretion of the court, for a level 7 or level 8  
121 offense, by 1.5. The state attorney may move the sentencing  
122 court to reduce or suspend the sentence of a person convicted of  
123 a level 7 or level 8 offense, if the offender provides  
124 substantial assistance as described in s. 893.135(4).

125

126 Law enforcement protection: If the primary offense is a  
127 violation of the Law Enforcement Protection Act under s.  
128 775.0823(2), (3), or (4), the subtotal sentence points are  
129 multiplied by 2.5. If the primary offense is a violation of s.  
130 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
131 are multiplied by 2.0. If the primary offense is a violation of  
132 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
133 Protection Act under s. 775.0823(10) or (11), the subtotal  
134 sentence points are multiplied by 1.5.

135

136 Grand theft of a motor vehicle: If the primary offense is grand  
137 theft of the third degree involving a motor vehicle and in the  
138 offender's prior record, there are three or more grand thefts of  
139 the third degree involving a motor vehicle, the subtotal  
140 sentence points are multiplied by 1.5.

141

142 Offense related to a criminal gang: If the offender is convicted  
143 of the primary offense and committed that offense for the  
144 purpose of benefiting, promoting, or furthering the interests of  
145 a criminal gang as defined in s. 874.03, the subtotal sentence

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146 points are multiplied by 1.5. If applying the multiplier results  
147 in the lowest permissible sentence exceeding the statutory  
148 maximum sentence for the primary offense under chapter 775, the  
149 court may not apply the multiplier and must sentence the  
150 defendant to the statutory maximum sentence.

151

152 Domestic violence in the presence of a child: If the offender is  
153 convicted of the primary offense and the primary offense is a  
154 crime of domestic violence, as defined in s. 741.28, which was  
155 committed in the presence of a child under 16 years of age who  
156 is a family or household member as defined in s. 741.28(3) with  
157 the victim or perpetrator, the subtotal sentence points are  
158 multiplied by 1.5.

159

160 Adult-on-minor sex offense: If the offender was 18 years of age  
161 or older and the victim was younger than 18 years of age at the  
162 time the offender committed the primary offense, and if the  
163 primary offense was an offense committed on or after October 1,  
164 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
165 violation involved a victim who was a minor and, in the course  
166 of committing that violation, the defendant committed a sexual  
167 battery under chapter 794 or a lewd act under s. 800.04 or s.  
168 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
169 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
170 800.04; or s. 847.0135(5), the subtotal sentence points are  
171 multiplied by 2.0. If applying the multiplier results in the  
172 lowest permissible sentence exceeding the statutory maximum  
173 sentence for the primary offense under chapter 775, the court  
174 may not apply the multiplier and must sentence the defendant to

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175 the statutory maximum sentence.

176 Section 2. Paragraph (c) of subsection (1), paragraph (f)  
177 of subsection (2), subsection (4), and paragraphs (c) through  
178 (f) and (i) of subsection (9) of section 948.06, Florida  
179 Statutes, are amended to read:

180 948.06 Violation of probation or community control;  
181 revocation; modification; continuance; failure to pay  
182 restitution or cost of supervision.—

183 (1)

184 (c) If a probationer or offender on community control  
185 commits a technical violation, the probation officer shall  
186 determine whether the probationer or offender on community  
187 control is eligible for the alternative sanctioning program  
188 under subsection (9). If the probation officer determines that  
189 the probationer or offender on community control is eligible,  
190 the probation officer may proceed with the alternative  
191 sanctioning program in lieu of filing an affidavit of violation  
192 with the court. If the probationer or offender on community  
193 control is eligible for the alternative sanctioning program and  
194 the violation is a low-risk violation as defined in paragraph  
195 (9) (b), the probation officer must proceed with the alternative  
196 sanctioning program in lieu of filing an affidavit of violation  
197 with the court unless directed by the court to submit or file an  
198 affidavit of violation pursuant to paragraph (9) (i). For  
199 purposes of this section, the term "technical violation" means  
200 an alleged violation of supervision that is not a new felony  
201 offense, a misdemeanor violation of chapter 784, a misdemeanor  
202 crime of domestic violence as defined in s. 741.28, or a  
203 misdemeanor under s. 316.193, s. 741.29, s. 741.31, s. 784.046,

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204 s. 784.047, s. 784.048, s. 784.0487, s. 784.049, or s. 787.025  
205 ~~misdemeanor offense~~, or criminal traffic offense other than a  
206 misdemeanor violation of s. 322.34.

207 (2)

208 (f)1. Except as provided in subparagraph 4. 3. or upon  
209 waiver by the probationer, the court shall modify or continue a  
210 probationary term upon finding a probationer in violation when  
211 all of the following apply:

212 a. The term of supervision is probation.

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

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

217 d. The court has not, on two or more separate occasions,  
218 previously found the probationer in violation of his or her  
219 probation pursuant to a filed violation of probation affidavit  
220 during the current term of supervision. A probationer who has  
221 successfully completed sanctions through the alternative  
222 sanctioning program is eligible for mandatory modification or  
223 continuation of his or her probation.

224 2. Upon modifying probation under subparagraph 1., the  
225 court may include in the sentence a maximum of 90 days in county  
226 jail as a special condition of probation. If the court has  
227 previously found the probationer in violation of his or her  
228 probation and modified probation with up to 90 days in county  
229 jail as a special condition of probation, it may, upon  
230 modification of probation under subparagraph 1., include in the  
231 sentence a maximum of 120 days in county jail as a special  
232 condition of probation.



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233       ~~3.2.~~ Upon modifying probation under subparagraph 1., the  
234 court may include in the sentence a maximum of 90 days in county  
235 jail as a special condition of probation.

236       ~~4.3.~~ Notwithstanding s. 921.0024, if a probationer meets  
237 the criteria for mandatory modification in subparagraph 1. but  
238 has less time under supervision remaining than the number of  
239 days in jail authorized in subparagraph 2. than 90 days of  
240 supervision remaining on his or her term of probation and meets  
241 the criteria for mandatory modification or continuation in  
242 subparagraph 1., the court may revoke probation and sentence the  
243 probationer to a maximum of 90 or 120 days in county jail as  
244 provided in subparagraph 2.

245       ~~5.4.~~ For purposes of imposing a jail sentence under this  
246 paragraph only, the court may grant credit only for time served  
247 in the county jail since the probationer's most recent arrest  
248 for the violation. However, the court may not order the  
249 probationer to a total term of incarceration greater than the  
250 maximum provided by s. 775.082.

251       (4) Notwithstanding any other provision of this section, a  
252 felony probationer or an offender in community control who is  
253 arrested for violating his or her probation or community control  
254 in a material respect may be taken before the court in the  
255 county or circuit in which the probationer or offender was  
256 arrested. That court shall advise him or her of the charge of a  
257 violation and, if such charge is admitted, shall cause him or  
258 her to be brought before the court that granted the probation or  
259 community control. If the violation is not admitted by the  
260 probationer or offender, the court may commit him or her or  
261 release him or her with or without bail to await further

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262 hearing. However, if the probationer or offender is under  
263 supervision for any criminal offense proscribed in chapter 794,  
264 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
265 registered sexual predator or a registered sexual offender, or  
266 is under supervision for a criminal offense for which he or she  
267 would meet the registration criteria in s. 775.21, s. 943.0435,  
268 or s. 944.607 but for the effective date of those sections, the  
269 court must make a finding that the probationer or offender is  
270 not a danger to the public prior to release with or without  
271 bail. In determining the danger posed by the offender's or  
272 probationer's release, the court may consider the nature and  
273 circumstances of the violation and any new offenses charged; the  
274 offender's or probationer's past and present conduct, including  
275 convictions of crimes; any record of arrests without conviction  
276 for crimes involving violence or sexual crimes; any other  
277 evidence of allegations of unlawful sexual conduct or the use of  
278 violence by the offender or probationer; the offender's or  
279 probationer's family ties, length of residence in the community,  
280 employment history, and mental condition; his or her history and  
281 conduct during the probation or community control supervision  
282 from which the violation arises and any other previous  
283 supervisions, including disciplinary records of previous  
284 incarcerations; the likelihood that the offender or probationer  
285 will engage again in a criminal course of conduct; the weight of  
286 the evidence against the offender or probationer; and any other  
287 facts the court considers relevant. The court, as soon as is  
288 practicable, shall give the probationer or offender an  
289 opportunity to be fully heard on his or her behalf in person or  
290 by counsel. If the alleged violation is a low-risk violation as

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291 defined in paragraph (9) (b), the court must, within 20 days  
292 after arrest, give the probationer or offender an opportunity to  
293 be fully heard on his or her behalf in person or by counsel. If  
294 no hearing is held within 20 days after arrest, the court must  
295 release the probationer or offender without bail. The court may  
296 impose nonmonetary conditions of release. After the hearing, the  
297 court shall make findings of fact and forward the findings to  
298 the court that granted the probation or community control and to  
299 the probationer or offender or his or her attorney. The findings  
300 of fact by the hearing court are binding on the court that  
301 granted the probation or community control. Upon the probationer  
302 or offender being brought before it, the court that granted the  
303 probation or community control may revoke, modify, or continue  
304 the probation or community control or may place the probationer  
305 into community control as provided in this section. However, the  
306 probationer or offender shall not be released and shall not be  
307 admitted to bail, but shall be brought before the court that  
308 granted the probation or community control if any violation of  
309 felony probation or community control other than a failure to  
310 pay costs or fines or make restitution payments is alleged to  
311 have been committed by:

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

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

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

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320 habitual violent felony offender as defined in s. 775.084(1)(b),  
 321 a three-time violent felony offender as defined in s.  
 322 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
 323 arrested for committing a qualifying offense as defined in this  
 324 section on or after the effective date of this act.

325 (9)

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

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

330 2. Failure to remain at an approved residence by an  
 331 offender on community control.

332 3. A third violation identified in paragraph (b) by a  
 333 probationer within the current term of supervision.

334 4. A new misdemeanor offense that is not a misdemeanor  
 335 violation of chapter 784, a misdemeanor crime of domestic  
 336 violence as defined in s. 741.28, or a misdemeanor under s.  
 337 316.193, s. 741.29, s. 741.31, s. 784.046, s. 784.047, s.  
 338 784.048, s. 784.0487, s. 784.049, or s. 787.025.

339 ~~5.4.~~ Any other violation as determined by administrative  
 340 order of the chief judge of the circuit.

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

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

345 2. The violation is a felony, a misdemeanor violation of  
 346 chapter 784, a misdemeanor crime of domestic violence as defined  
 347 in s. 741.28, or a misdemeanor under s. 316.193, s. 741.29, s.  
 348 741.31, s. 784.046, s. 784.047, s. 784.048, s. 784.0487, s.

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349 784.049, or s. 787.025 ~~misdemeanor~~, or criminal traffic offense  
350 other than a misdemeanor violation of s. 322.34;

351 3. The violation is absconding;

352 4. The violation is of a stay-away order or no-contact  
353 order;

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

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

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

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

362 9. The terms of the sentence prohibit alternative  
363 sanctioning.

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

368 1. Up to 5 days in the county jail.

369 2. Up to 50 additional community service hours.

370 3. Counseling or treatment.

371 4. Support group attendance.

372 5. Drug testing.

373 6. Loss of travel or other privileges.

374 7. Curfew for up to 30 days.

375 8. House arrest for up to 30 days.

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

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378           b. However, in no circumstance shall participation in an  
379 alternative sanctioning program convert a withheld adjudication  
380 to an adjudication of guilt.

381           (f)1. For a first moderate-risk violation, as defined in  
382 paragraph (c), within the current term of supervision, a  
383 probation officer, with a supervisor's approval, may offer an  
384 eligible probationer or offender on community control one or  
385 more of the following as an alternative sanction:

386           ~~a.1.~~ Up to 21 days in the county jail.

387           ~~b.2.~~ Curfew for up to 90 days.

388           ~~c.3.~~ House arrest for up to 90 days.

389           ~~d.4.~~ Electronic monitoring for up to 90 days.

390           ~~e.5.~~ Residential treatment for up to 90 days.

391           ~~f.6.~~ Any other sanction available for a low-risk violation.

392           ~~g.7.a.~~ Any other sanction as determined by administrative  
393 order of the chief judge of the circuit.

394           ~~b.~~ However, in no circumstance shall participation in an  
395 alternative sanctioning program convert a withheld adjudication  
396 to an adjudication of guilt.

397           2. If the violation of subparagraph 1. is a moderate-risk  
398 violation of an offense specified in subparagraph (c)4., the  
399 state attorney must consent to the offer of an alternative  
400 sanction.

401           (i) If the violation is a low-risk violation under  
402 paragraph (b), the court must impose the recommended sanction  
403 unless it records a finding of specific, identified risk to  
404 public safety, in which case it may direct the department to  
405 submit a violation report, affidavit, and warrant to the court.  
406 In all other cases, the court may impose the recommended

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407 sanction or direct the department to submit a violation report,  
408 affidavit, and warrant to the court.

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