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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; correcting provisions concerning  
11          limiting prison sentences for first-time revocations  
12          for technical violations; providing time periods for  
13          hearing and release of a probationer or offender  
14          concerning alleged violations that are low-risk  
15          violations; providing that an alternative sanction is  
16          the required method for resolving certain low-risk  
17          violations; requiring a court to impose the  
18          recommended sanction for certain low-risk violations;  
19          providing an exception; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:  
22

23           Section 1. Paragraph (b) of subsection (1) of section  
24           921.0024, Florida Statutes, is amended to read:

25           921.0024 Criminal Punishment Code; worksheet computations;  
26           scoresheets.-

27           (1)

28           (b) WORKSHEET KEY:  
29

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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 on  
54 the probationer or offender's failure to pay costs or fines or  
55 make restitution payments.

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

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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

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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

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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

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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), subsection (4),  
170 and paragraphs (e) and (i) of subsection (9) of section 948.06,  
171 Florida Statutes, are amended to read:

172 948.06 Violation of probation or community control;  
173 revocation; modification; continuance; failure to pay  
174 restitution or cost of supervision.—

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175 (1)

176 (c) If a probationer or offender on community control  
177 commits a technical violation, the probation officer shall  
178 determine whether the probationer or offender on community  
179 control is eligible for the alternative sanctioning program  
180 under subsection (9). If the probation officer determines that  
181 the probationer or offender on community control is eligible,  
182 the probation officer may proceed with the alternative  
183 sanctioning program in lieu of filing an affidavit of violation  
184 with the court. If the probationer or offender on community  
185 control is eligible for the alternative sanctioning program and  
186 the violation is a low-risk violation as defined in paragraph  
187 (9) (b), the probation officer must proceed with the alternative  
188 sanctioning program in lieu of filing an affidavit of violation  
189 with the court unless directed by the court to submit or file an  
190 affidavit of violation pursuant to paragraph (9) (i). For  
191 purposes of this section, the term "technical violation" means  
192 an alleged violation of supervision that is not a new felony  
193 offense, misdemeanor offense, or criminal traffic offense.

194 (4) Notwithstanding any other provision of this section, a  
195 felony probationer or an offender in community control who is  
196 arrested for violating his or her probation or community control  
197 in a material respect may be taken before the court in the  
198 county or circuit in which the probationer or offender was  
199 arrested. That court shall advise him or her of the charge of a  
200 violation and, if such charge is admitted, shall cause him or  
201 her to be brought before the court that granted the probation or  
202 community control. If the violation is not admitted by the  
203 probationer or offender, the court may commit him or her or

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204 release him or her with or without bail to await further  
205 hearing. However, if the probationer or offender is under  
206 supervision for any criminal offense proscribed in chapter 794,  
207 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
208 registered sexual predator or a registered sexual offender, or  
209 is under supervision for a criminal offense for which he or she  
210 would meet the registration criteria in s. 775.21, s. 943.0435,  
211 or s. 944.607 but for the effective date of those sections, the  
212 court must make a finding that the probationer or offender is  
213 not a danger to the public prior to release with or without  
214 bail. In determining the danger posed by the offender's or  
215 probationer's release, the court may consider the nature and  
216 circumstances of the violation and any new offenses charged; the  
217 offender's or probationer's past and present conduct, including  
218 convictions of crimes; any record of arrests without conviction  
219 for crimes involving violence or sexual crimes; any other  
220 evidence of allegations of unlawful sexual conduct or the use of  
221 violence by the offender or probationer; the offender's or  
222 probationer's family ties, length of residence in the community,  
223 employment history, and mental condition; his or her history and  
224 conduct during the probation or community control supervision  
225 from which the violation arises and any other previous  
226 supervisions, including disciplinary records of previous  
227 incarcerations; the likelihood that the offender or probationer  
228 will engage again in a criminal course of conduct; the weight of  
229 the evidence against the offender or probationer; and any other  
230 facts the court considers relevant. The court, as soon as is  
231 practicable, shall give the probationer or offender an  
232 opportunity to be fully heard on his or her behalf in person or

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233 by counsel. If the alleged violation is a low-risk violation as  
234 defined in paragraph (9)(b), the court must, within 20 days  
235 after arrest, give the probationer or offender an opportunity to  
236 be fully heard on his or her behalf in person or by counsel. If  
237 no hearing is held within 20 days after arrest, the court must  
238 release the probationer or offender without bail. The court may  
239 impose nonmonetary conditions of release. After the hearing, the  
240 court shall make findings of fact and forward the findings to  
241 the court that granted the probation or community control and to  
242 the probationer or offender or his or her attorney. The findings  
243 of fact by the hearing court are binding on the court that  
244 granted the probation or community control. Upon the probationer  
245 or offender being brought before it, the court that granted the  
246 probation or community control may revoke, modify, or continue  
247 the probation or community control or may place the probationer  
248 into community control as provided in this section. However, the  
249 probationer or offender shall not be released and shall not be  
250 admitted to bail, but shall be brought before the court that  
251 granted the probation or community control if any violation of  
252 felony probation or community control other than a failure to  
253 pay costs or fines or make restitution payments is alleged to  
254 have been committed by:

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

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

261 (c) A person who is on felony probation or community

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262 control and has previously been found by a court to be a  
263 habitual violent felony offender as defined in s. 775.084(1) (b),  
264 a three-time violent felony offender as defined in s.  
265 775.084(1) (c), or a sexual predator under s. 775.21, and who is  
266 arrested for committing a qualifying offense as defined in this  
267 section on or after the effective date of this act.

268 (9)

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

- 273 1. Up to 5 days in the county jail.
- 274 2. Up to 50 additional community service hours.
- 275 3. Counseling or treatment.
- 276 4. Support group attendance.
- 277 5. Drug testing.
- 278 6. Loss of travel or other privileges.
- 279 7. Curfew for up to 30 days.
- 280 8. House arrest for up to 30 days.
- 281 9.a. Any other sanction as determined by administrative  
282 order of the chief judge of the circuit.

283 b. However, in no circumstance shall participation in an  
284 alternative sanctioning program convert a withheld adjudication  
285 to an adjudication of guilt.

286 (i) If the violation is a low-risk violation under  
287 paragraph (b), the court must impose the recommended sanction  
288 unless it records a finding of specific, identified risk to  
289 public safety, in which case it may direct the department to  
290 submit a violation report, affidavit, and warrant to the court.

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291 In all other cases, the court may impose the recommended  
292 sanction or direct the department to submit a violation report,  
293 affidavit, and warrant to the court.

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